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A MANUAL

OF

MEDICAL JURISPRUDENCE.

BY

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Qui nescit ignorare ignorat scire.

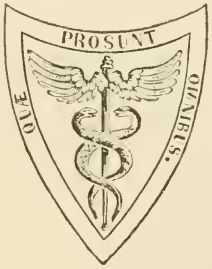
SIXTH AMERICAN FROM THE EIGHTH AND REVISED LONDON EDITION

WITH

NOTES AND REFERENCES TO AMERICAN DECISIONS.

BY

CLEMENT B. PENROSE,
OF THE PHILADELPHIA BAR.



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AMERICAN PUBLISHER'S NOTICE.

In preparing for the press the present edition, it has been thought advisable to restore some portions of the matter omitted by the author, and also to introduce some material from his "Principles and Practice of Medical Jurisprudence," thus rendering the volume more complete for those to whom his larger work is not accessible. These additions will be found in the articles on noxious animal food, trichiniasis, sexual malformation, insanity as affecting civil responsibility, suicidal mania and suicide, and life insurance.

The notes of the former American editor, Dr. Hartshorne, have been retained, and will be found inclosed in brackets, distinguished by the letter [H.]. Numerous references to American practice and decisions have also been introduced by the present editor, whose notes are signed [P.].

Philadelphia, *October*, 1866.

PREFACE

TO

THE EIGHTH EDITION.

In preparing for the press the eighth edition of the Manual of Medical Jurisprudence, it has been considered advisable to make a few changes in the volume. The subjects have been reduced in extent by the omission of the details of cases, which now find a more appropriate place in the large work lately published under the title of The Principles and Practice of Medical Jurisprudence. Those facts only are retained which are likely to be of practical utility to students of medicine and law, as well as to junior medical practitioners. For the information and guidance of medical men, two chapters on evidence and the duties and responsibilities of medical witnesses have been placed at the commencement of the volume, and some medico-legal subjects, not hitherto treated in the previous editions, have been introduced. Among other changes may be noticed the introduction of numerous engravings representing the crystalline forms of poisons and the apparatus used for their detection. From the additions thus made, it is hoped that this edition of the Manual will be found a convenient guide to medico-legal practice.

15 St. James's Terrace, Regent's Park:
May, 1866.

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MEDICAL JURISPRUDENCE.

MEDICAL EVIDENCE.

CHAPTER I.

THE PRACTICE OF MEDICAL JURISPRUDENCE.—MEDICAL AND MEDICO-LEGAL DUTIES.—DYING DECLARATIONS.—INSPECTION OF BODIES IN DEATH FROM WOUNDS OR POISONING.—USE OF NOTES.—MEDICO-LEGAL REPORTS.

MEDICAL JURISPRUDENCE—or, as it is sometimes called, FORENSIC, LEGAL, or STATE MEDICINE—may be defined to be that science which teaches the application of every branch of medical knowledge to the purposes of the law; hence its limits are, on the one hand, the requirements of the law, and on the other, the whole range of medicine. Anatomy, physiology, medicine, surgery, chemistry, physics, and botany, lend their aid as necessity arises; and in some cases all these branches of science are required to enable a court of law to arrive at a proper conclusion on a contested question affecting life or property.

The purpose of this work is to bring as far as possible within a small compass those subjects which especially demand inquiry, and which more particularly concern the duties of the educated physician and surgeon. The definition above given necessarily implies that a medical jurist should have a theoretical and practical knowledge of all branches of the profession, a large range of experience, and the rare power of adapting his knowledge and experience to emergencies. He should be able to elucidate any difficult medico-legal question which may arise, and be prepared at all times to make a cautious selection of such medical facts, and a proper application of such medical principles, as may be necessary to enable a judge to place the subject in an intelligible light before a jury, and to enable a jury to arrive at a just conclusion.

The variety of subjects of which a medical jurist is required to have knowledge may well alarm a student, and lead him to suppose that, as he cannot make himself perfectly acquainted with all, he may well forego the labor of preparing himself in any. But this would be taking an erroneous view of his position. This description of the

qualifications necessary to constitute a normal witness in a court of law must not deter him from entering on the study. It is assuredly beyond the mental power of any individual that he should be at the same time profoundly versed in all the principles of medicine and jurisprudence, and that he should be able to answer all possible questions, and encounter and remove all medical difficulties that may occur during the trial of a civil or criminal case. All that the law expects from a medical man is a fair average knowledge not merely of his profession, but of that which falls more peculiarly under the province of a medical witness. There can be no doubt that the more perfectly a man has made himself master of his profession, the better will he be fitted to follow the principles and apply himself to the practice of medical jurisprudence; but he must divest himself of the notion that these principles can be spontaneously acquired, or that they are necessarily derived from the study of those isolated branches of medicine upon which medical jurisprudence is based. The materials for the medical jurist undoubtedly exist in these collateral sciences; but they require to be assorted, selected, and moulded into shape, before they can be applied to any useful or practical purpose.

The duties of a medical jurist are distinct from those of a physician or surgeon; the latter looks only to the treatment of disease or accident and the saving of life; but the object of the former, in a large proportion of cases, is, whether in reference to the living or dead, to aid the law in fixing on the perpetrator of a crime, or to rescue an innocent person from a falsely imputed crime. Thus he may be required to determine whether, in a particular case, the cause of death is natural or violent; and for this purpose it will be necessary for him to make an entirely new application of his professional knowledge. He has now the difficult task of making a selection from those parts of the medical sciences which bear upon the legal proof and development of crime.

Some members of the profession have been inclined to look upon medico-legal practice as an unnecessary addition to their ordinary duties; but there are few who have been long engaged in practice, who have not found themselves occasionally placed in situations of difficulty from the accidental occurrence of cases demanding medico-legal investigation. A medical man is summoned to attend a person laboring under the effects of poison criminally administered, but at the time he may have no knowledge or even suspicion that poison is the cause of the symptoms. In spite of the best treatment, death ensues; here the functions of the medical man end, and those of a medical witness begin. It is utterly impossible that he can now avoid giving evidence, or shift the responsibility on another—the law will insist upon his appearance, first in the court of the coroner, and afterwards at the Assizes. It will here be assumed that as a registered member of the profession he is fully competent to answer every question put to him by judge and counsel relative to the general effects of poisons; the quantity required to destroy life; and the time within which a poison may prove fatal. It may be objected to his evidence, that the deceased had died from the effects of disease and not from

poison, in which case the cross-examination will lead to a searching inquiry into all those diseases which resemble poisoning in their symptoms and post-mortem appearances as well as the means of making a certain distinction between them; and the fallacies to which the chemical processes for the detection of poison are liable. On another occasion a medical man may be called to render assistance to one who has been stabbed in a quarrel, and who speedily dies from the wound. The office of the surgeon here ceases, while that of the medical jurist commences. He must now be prepared to answer numerous questions, all bearing upon the legal proof of crime, all necessary in law, although apparently superfluous in surgery. Thus he may be asked to state the precise characters of a wound inflicted upon the body of a man soon after death; and by what means a particular wound was inflicted? Was it homicidal or accidental? The amount of blood lost? Whether the person could have moved or performed any act after receiving it? Are certain red spots found upon his clothes, or upon a knife belonging to him, owing to effused blood or other causes? Whether any, and what statements were made by the dying man, and what were the precise circumstances under which they were made? It need hardly be observed that questions of this nature are rarely noticed, except in a cursory manner, by professors of chemistry and surgery, and a medical man is not likely to acquire the means of answering them by intuition. On the other hand, regarding ourselves as living in a civilized state, in which the detection and punishment of crimes against life and property are indispensable to the security of all, it is impossible to overrate their importance. Unless a witness is able to return answers to these questions when a public necessity occurs, a guilty man may escape punishment, while an innocent man may be condemned. He may thus most seriously injure his own reputation, for it is certain that his qualifications as a physician, surgeon, or general practitioner, however great, will not shield him from general reprobation.

Thus, then, it is obvious that the duties of a medical jurist are of a highly responsible nature and of great importance to society, while the cases which call them into exercise are of purely accidental occurrence. A medical practitioner who thinks himself secure in the most retired corner of the kingdom, is liable to find himself suddenly summoned as a witness on a trial, to answer questions which perhaps during a long period of practice he had been led to regard as unimportant. Under the circumstances it is scarcely possible that he can avoid exposing his deficiencies, and the final question will be, *Have you ever attended to or thought of these subjects before?* A negative answer to this question, while it commonly brings with it public censure, will in most instances lead to the acquittal of the accused in spite of strong presumptions of guilt.

I have endeavored to avoid overdrawing this picture; its truth will, I am sure, be felt and acknowledged by those who have been a few years engaged in practice. The records of our courts of law contain many unfortunate exposures, which might have been easily avoided, had the witnesses only availed themselves of the opportu-

nities afforded to them while students, of acquiring a knowledge of the subject; but they had unreflectingly acted on the principle, that medical jurisprudence was a dry, dull, and useless study, and that the practice of it was remote and speculative. This feeling is, however, fast disappearing. Those who have been compelled by circumstances to give their attention to it, have in subsequent cases taken care to prepare themselves for the ordeal through which every medical witness must pass.

Some medical men who have treated legal medicine with indifference have occasionally ventured to act as witnesses, thinking that the subjects on which they were likely to be examined were so little known to judge and counsel, that even hazardous or rash statements would escape observation: such witnesses, however, have often found to their cost that they were laboring under a fatal delusion. Various circumstances have led, in recent times, to the acquisition of much medico-legal knowledge by lawyers, especially in relation to questions connected with wounds, child-murder and poisoning, and they are not slow in detecting and exposing a mere pretender who attempts to shelter himself by vague or evasive statements and technical language. Another fact must be borne in mind: there are few counsel engaged in any civil or criminal case of importance who do not take care to fortify themselves under medical advice, with a full knowledge of the views of standard medical writers on the subject in dispute; and with these works before them, and with their proverbial acuteness, he must indeed be a clever witness who can succeed in passing off an erroneous or evasive answer to a medico-legal question.

It is a frequent charge against members of the medical profession that they are the worst witnesses on matters of fact and opinion. I believe this to be an unmerited censure. Those who are ready to make this charge overlook the number, complexity and difficulty of the questions which are put to medical men compared with those put to other witnesses. They also forget that medical men are much more frequently summoned as witnesses than the members of the two other learned professions. Their evidence obtains much greater publicity, and is necessarily exposed to a wider circle of criticism. The fact is, that good and bad witnesses are to be met with in every profession, and under equal conditions there is no reason to suppose that one would furnish a greater number of incompetent witnesses than another. It is certainly the fault of medical men that they are not generally prepared for the questions which are likely to arise in a case on which they know they will be required to give evidence. This want of preparation frequently applies to facts as well as to opinions. Thus, in reference to a case on which a charge of murder or manslaughter may be ultimately founded, a medical man who is called in omits to observe many circumstances because at the time they appear to him to have little importance, although at the subsequent trial he may find, to his dismay, that they actually become the turning-points of innocence or guilt. Medical observation as a result of professional habits is, on these occasions, in general confined to only one set of circumstances—the recognition and treatment of acci-

dent or disease; but medico-legal observation should take a much wider range than this, and should be directed to all the surrounding facts and incidents of a case. The essential difference in the two kinds of practice is, that circumstances which are of no interest in a medical or surgical point of view, are often of the greatest value and importance in legal medicine. It is obvious that if they are not observed by a medical witness when he is first summoned to the injured person whether dying or dead, it will be out of his power to meet many of the questions which must arise in the progress of the case. The non-observance of these facts is a serious evil, and often carries with it, although unjustly, an imputation of professional ignorance.

The first duty, therefore, of a medical jurist is to cultivate a faculty of minute observation of medical and moral circumstances. This, when combined with a general knowledge of what the law requires as evidence, will enable him to meet in a satisfactory manner all the scientific questions that may be necessary for the elucidation of a case. The exercise of this faculty is by no means inconsistent with the performance of his duties as a surgeon. A learned judge on one occasion remarked that "*a medical man, when he sees a dead body, should notice everything.*" Undoubtedly he should observe everything which could throw a light upon the production of wounds or other injuries found upon it. It should not be left to policemen to say whether there were any marks of blood on the dress or on the hands of the deceased, or on the furniture in the room. The dress of the deceased as well as the body should be always closely examined on the spot by the medical man.

It may stimulate the attention of a medical practitioner in reference to these inquiries if he is informed that the great art of counsel who defend persons charged with murder or manslaughter, consists in endeavoring to discover what he omitted to do. Although sometimes the omission may be really of no medical importance whatever, yet it is usually placed before the jury in such a strong light that the accused obtains the benefit of a doubt. The omission may be attributed to professional ignorance, or, what is worse, to professional bias—a determination to find proofs of guilt against the "unhappy prisoner at the bar"—when the facts might be innocently explained by a want of experience on the part of the witness in dealing with cases of this nature.

If we except medical experts, who are selected according to their experience in different branches of the profession, medical men have no option respecting medico-legal practice; for the cases which give rise to medico-legal questions are always more or less connected with the practice of medicine and surgery.

Thus before any inquiry is instituted by a magistrate or coroner, and before any suspicious circumstances have come to light, a medical man may be summoned to a person dying from the effects of a wound, or from the secret administration of poison. The dying person may make to him a declaration or statement as to the circumstances under which the wound was inflicted or the poison

administered: he may also mention the names of the person or persons concerned in the assault or the administration. This *dying declaration* or statement, according to the circumstances under which it is made, may become of material importance in the prosecution of a party charged with murder or manslaughter. It is therefore proper that a practitioner should observe and make notes of the *exact condition* of the patient; whether, when he makes the statement, he is under the conviction or belief that he is dying. It has been thought that it was also necessary to prove that the wounded man had lost all hope of recovery: but as a learned judge has justly remarked, it is very difficult, if not impossible, to say on these occasions, when, if ever, the feeling of hope completely deserts a man. It is sufficient for all legal purposes, if he expresses his belief that he is dying.

Hence, when the case is likely to prove fatal, it is the duty of the medical man to warn the patient in the presence of his relatives or friends, of his dangerous condition. If the wound or poison is not likely to prove rapidly fatal, the attendance of a magistrate to take down the statement in due legal form, would relieve the medical man of all responsibility. Should any statement, however, be made to him under these circumstances, it is his duty to make, on the spot, a note of the words actually used. There should be no paraphrase or translation of them, but they should be the *ipsissima verba* of the dying man. It is not for the witness, but for the court, to interpret what is thus stated. A medical man on these occasions should not render himself officious in extracting information. He may receive that which is *voluntarily uttered*, and, either immediately or on the earliest possible opportunity, write down the statement as it was made. Any question should be simply confined to the purpose of explaining what may appear to him to be ambiguous or contradictory in the declaration itself.

In reference to persons who have died from the effects of wounds, poison or other violent causes, the initiatory proceedings connected with the inquiry usually take place in the court of the coroner; and unless the medical man in attendance is supposed to be implicated by maltreatment or otherwise in the death of the person, the duty of making an examination of the dead body devolves upon him. He may not have seen the person while living; and in this case it will be necessary that he should give his attention to those circumstances which may be of importance in the future inquiry. He should note as far as it can be ascertained 1. The exact time of death, if known, and thus determine how long a period the person has survived. 2. The attitude, position and condition of the body. 3. The state of the dress. 4. All surrounding objects. Any bottles, paper-packets, weapons, or spilled liquids lying about should be collected and preserved and their position with regard to the body of deceased should be noted. 5. Any vomited matters near the deceased should be collected. In making a *post-mortem examination* of the body the following additional points should be attended to. 6. The external appearance of the body, whether the surface is livid or pallid. 7. Note the state of the countenance. 8. Note all marks of violence on the per-

son, or discomposure of the dress, marks of blood, &c. 9. The situation, form and direction of all wounds should be accurately noticed. 10. The presence or absence of warmth or coldness in the legs, arms, abdomen, mouth, or arm-pits. 11. The presence of cadaveric rigidity in any part of the body. To give any value to the two last-mentioned characters, it is necessary for the practitioner to observe the nature of the floor on which the body is lying, whether the body is clothed or naked, young or old, fat or emaciated. These conditions create a difference, in respect to the cooling of the body and the access of rigidity. 12. If found dead—When was the deceased last seen living, or known to have been alive? 13. Note all circumstances leading to a suspicion of suicide or murder. 14. The time after death at which the inspection is made. 15. Observe the state of the abdominal viscera. If the stomach and intestines are found inflamed, the seat of inflammation should be exactly specified; also all marks of softening, ulceration, effusion of blood, corrosion, or perforation. The stomach should be removed and placed in a *separate vessel*, ligatures being applied to the two ends. If cut open for examination at this period, this should be performed in a clean dish, and with such care that none of the contents are lost or are allowed to mix with the contents of the intestines. 16. The contents of the stomach, if this organ is opened during the inspection, should be collected in a clean *graduated* vessel: notice *a*, the quantity; *b*, the odor tried by several persons; *c*, the color; *d*, acid or alkaline reaction; *e*, presence of blood, mucus, or bile; *f*, presence of undigested food; and here it may be as well to observe, that the presence of farinaceous matters (bread) would be indicated by the addition of iodine water, if the contents were not alkaline—of fat, by heat; *g*, other special characters. 17. The contents of the duodenum should be separately collected, ligatures being applied to it. 18. Observe the state of the large intestines, especially the rectum, and note the condition of their contents. The discovery of hardened feces in the rectum would prove that purging had not existed recently before death. 19. The state of the windpipe, throat, and gullet, whether there are in these parts any foreign substances, or marks of inflammation and corrosion. This is of essential importance, as it throws a light upon a variety of questions which may arise respecting death by suffocation from mechanical causes, or the nature of a substance swallowed. 20. The state of the lungs and heart; all morbid changes noted. 21. The state of the brain and spinal marrow. 22. The condition of the uterus, ovaries, and genital organs should be examined, as, in the female, poison has been sometimes introduced into the system by the vagina, or wounds have been inflicted internally. 23. The liver with the gall-bladder should be removed for a chemical examination. 24. The urinary bladder, with any fluid contained in it, should be removed and placed in a separate jar.

Such are the points to which, in the greater number of cases of violent death a medical jurist should give his attention. By means of these data, noted according to the particular case to which they are adapted, he will in general be enabled, without difficulty, to

determine the probable time of death, and the actual means by which death was brought about. He may thereby have it in his power, if the case be one of poisoning, to point out the dish or article of food which had contained the poison, and to throw light upon any disputed question of suicide or murder in relation to the deceased. Many cases of death from wounds or poison are rendered obscure, owing to these points not having been attended to in the first instance.

It is not necessary in this place to enter into any details respecting the mode of performing an *inspection*. This the practitioner will have acquired during his study of anatomy, and any additional information required, will be found in the appropriate sections of this work. The only essential points in addition to those above mentioned are, 1. To examine all the important organs for marks of natural disease; and 2. To note down any unusual pathological appearances, or abnormal deviations; although they may at the time appear to have no bearing on the cause of death. It is useful to bear in mind on these occasions, that the body is inspected, not merely to show that the person has died from poison, but to prove that he has *not* died from any *natural cause*. Medical practitioners commonly give their attention exclusively to the first point; while lawyers, who defend accused parties, very properly direct a most searching examination to the last-mentioned point, *i.e.* the healthy or unhealthy state of those organs which are essential to life. The usual causes of *sudden death* have their seats commonly in the brain, the heart and its great vessels, or in the lungs. Marks of effusion of blood, congestion, inflammation, suppuration, or a diseased condition of the valves of the heart, should be sought for and accurately noted. It has also been recommended that an examination of the spinal marrow should be made. If the cause of death be obscure after the general examination of the body, there is good reason for inspecting the condition of this organ.

Exhumation of Bodies.—Sometimes the inspection of a body is required to be made long after interment. So long as the coffin remains entire, there may be the expectation of discovering certain kinds of mineral poison in the organs; but decomposition may have advanced so far as to destroy all pathological evidence. The inspection in such cases is commonly confined to the abdominal viscera. The stomach is often found so thin and collapsed, that the anterior and posterior walls appear to form only one coat. This organ should be removed with the duodenum, and ligatures should be applied to each. The liver and the spleen should also be removed, in order that they may, if necessary, be separately analyzed. If poison is not found in one or more of these parts, it is not likely that it will be discovered in the body. It has been recommended that a portion of earth immediately above and below the coffin should be removed for analysis, as it may contain arsenic; but this appears to me to be an unnecessary piece of refinement when the coffin is entire, or when the abdominal parietes still cover the viscera. If decomposition has so far advanced as to have led to an admixture of earth with the vis-

cera, and the poison is found in minute quantity in the tissues only, the source of the poison may be regarded as doubtful. The body of a deceased person, when exhumed, should be identified by some friend or relative, in the presence of the medical examiner. In one case of murder by poison, the evidence almost failed, owing to this precaution not having been taken.

It is important that the viscera taken from a body which has been long in the grave should be sealed up immediately. They should not be allowed to come in contact with any metal, nor with any surface except that of clean glass, porcelain, or wood. It has been recommended that they should be washed with chloride of lime, or placed in alcohol; but this is decidedly improper: the use of any preservative chemical liquid would not only embarrass the future analysis, but would render a special examination of an unused portion of the liquid necessary, the identity of which would have to be unequivocally established. Preservation from air in clean glass vessels, with well-fitted corks, covered with skin, or, what is still better, sheet-caoutchouc, is all that is required in practice.

Identity of Substances.—It is necessary to observe, that all legal authorities rigorously insist upon proof being adduced of the *identity* of the vomited matters or other liquids taken from the body of a deceased person, when poisoning is suspected. Supposing that, during the examination, the stomach and viscera are removed from the body, they should never be placed on any surface, or in any vessel, until we have first ascertained that the surface or vessel is perfectly *clean*. If this point be not attended to, it will be in the power of counsel for the defence to raise a doubt in the minds of the jury, whether the poisonous substance might not have been accidentally present in the vessel used. This may be regarded as a very remote presumption; but, nevertheless, it is upon technical objections of this kind that acquittals follow in spite of the strongest presumptions of guilt. This is a question for which every medical witness should be prepared, whether he is giving his evidence at a coroner's inquest, or in a court of law. Many might feel disposed to regard matters of this kind as involving unnecessary nicety and care, but if they are neglected it is possible that a case may be at once stopped: so that the care subsequently bestowed upon a chemical analysis will be labor thrown away. Evidence of the presence of poison in the contents of a stomach was once rejected at a trial for murder, because they had been hastily thrown into a jar borrowed from a neighboring grocer's shop; and it could not be satisfactorily proved that the jar was clean and entirely free from traces of poison (in which the grocer dealt) when used for this purpose. When the life of a human being is at stake, as in a charge of murder by poisoning, the slightest doubt is always very properly interpreted in favor of the accused.

Not only must clean vessels be used for receiving any liquid destined for subsequent chemical analysis, but care must be taken that the *identity* of a substance is preserved, or the most correct analysis, afterwards made, will be inadmissible as evidence. The suspected substance, when once placed in the hands of a medical man,

should never be let out of his sight or custody. It should be kept sealed under his private seal, and locked up while in his possession, in a closet to which no other person has a key. If he has once let it out of his hands, and allowed it to pass through the hands of several other persons, then he complicates the evidence for the prosecution, by rendering it indispensable for these persons to state under what circumstances it was placed while in their possession. The exposure of a suspected substance on a table, or in a closet or room, to which many have access, may be fatal to its identity; for the chemical evidence, so important in a criminal investigation, will probably be altogether rejected by the court. When any article (*e.g.* a stomach or other organ) is reserved for analysis, care should be taken to attach immediately to it, or to the vessel containing it, a parchment or wooden label, upon which is plainly written, in ink, the name of the deceased and the date of removal, including the day of the week and month. This is especially necessary when there are two or more articles for analysis. I have known the greatest inconvenience to result from the neglect of this simple precaution.

Preserving Articles for Analysis.—In removing viscera or liquids from the body, and reserving them for analysis, it is necessary to observe certain precautions. A clean vessel with a wide mouth should be selected; it should be only sufficiently large to hold the organ or liquid (the less air remaining in it the better); it should be secured by a closely-fitting cork, covered with fine skin or bladder. Another piece of skin should then be tied over the mouth, or, for this, sheet caoutchouc or gutta-percha may be substituted with advantage. It should lastly be covered with tinfoil and a layer of white leather. In this way any loss by evaporation or decomposition is prevented, and the viscera may be preserved (in a cool place) for some time. If the mouth of the vessel be too wide for a cork, the other articles cannot be dispensed with. Paper only should not be used; I have known the appearances after death of the viscera of an infant, suspected to have died from poison, entirely destroyed by drying, from the evaporation which took place through the layers of paper with which the vessel in which they were contained was covered. The practitioner should bear in mind that all these matters are likely to come out in evidence; and whatever is worth doing at all is worth doing well. For reasons already stated, antiseptic chemical compounds should not be used. The addition of a small quantity of chloroform to the viscera will, without complicating the analysis, tend to preserve them.

The articles used for the preservation of viscera should be in all cases scrupulously examined. Some kinds of calico are dressed with arsenic and starch paste, and many kinds of wrapping-paper as well as wall-papers are strongly impregnated with this poison. An observation made by Mr. Aickin, of Belfast, shows that this is not an unnecessary caution. This gentleman was engaged in examining the body of a child, in order to determine the cause of death. The organs were healthy, and as no sufficient cause presented itself, he removed the stomach, with a view of making an analysis of its contents. He

was suddenly called away; and, to preserve the stomach, he wrapped it in a piece of paper (used for papering rooms), placing it on the uncolored side, and he locked it in a closet until the following day. Assisted by a friend, he then analyzed the contents, and found a trace of morphia with a pretty large quantity of arsenic. As the symptoms from which the child had died were not those of poisoning with arsenic, and there were no appearances of the action of this substance on the body, he came to the conclusion that its presence must have been owing to some extraneous cause. He examined a portion of the wall-paper in which the stomach had been wrapped, and then found that that part of it which was colored yellow was tinted with sulphide of arsenic or orpiment! It was therefore evident, as orpiment contains white arsenic, that the stomach and its contents had imbibed a portion of the poison during the night. ("Lancet," June 23, 1855, p. 632.) This satisfactorily accounted for the presence of arsenic under circumstances which might have given rise to a false charge of murder. Nearly all wall-papers having any tinge of green or golden yellow in them, contain arsenic, and this arsenic spreads by imbibition to other parts of the paper not so tinted. It would, of course, be proper to avoid in all cases the use of any wrapper having upon it mineral colors of any description. Mr. Aickin's case shows in a striking point of view the danger of trusting to chemical analysis alone. Unless we look to physiology and pathology, a most erroneous opinion may be expressed.

The results of an analysis, in the shape of sublimates or precipitates, should be preserved as evidence, distinctly labelled in small glass tubes, hermetically sealed. They can then, if asked for, be produced for examination at the inquest or trial.

On the Use of Notes.—It has already been recommended, as a rule in these criminal investigations, that a practitioner should make notes of what he observes in regard to symptoms, appearances after death, and the results of a chemical analysis. His own observations should be kept distinct from observation given him by others. He may base his conclusions on the former, but not on the latter. From the common forms of law in this country, a person charged with the crime of poisoning may remain imprisoned, if at a distance from the metropolis, for some months before he is brought to trial. It is obvious, however clear the circumstances may at the time appear to a practitioner, that it will require more than ordinary powers of memory to retain, for so long a period, a distinct recollection of all the facts of the case. If he is unprovided with notes, and his memory is defective, then the case will turn in favor of the prisoner, for he will be the person to benefit by the neglect of the witness. In adopting the plan here recommended, such a result may be easily prevented. It may be remarked that the law relative to the admissibility of notes or memoranda is very strict, and in trials for murder is rigorously enforced by the judges. In order to render such notes or memoranda admissible, it is indispensably necessary that they should be taken on the spot at the time the observations are made, or as soon afterwards as practicable; and, further, it must be remembered that a

witness can refer to them only to refresh his memory. If from indistinctness of writing or other causes, a copy of the notes has been subsequently made, a witness should not destroy the original notes, but have them ready for production. [See on this subject Greenleaf's Evidence, vol. i. §§ 436–439. Also, Alison's Treatise on the Practice of the Criminal Law, pp. 540–542.—P.]

So in reference to all other written memoranda connected with the case as to the medicines prescribed for the deceased, the visits made to him, &c., the witness should be prepared to produce them and explain any alterations or erasures which may be found in his books. Counsel are entitled to look at and examine all documents of this kind which are produced or used by the witness in giving his evidence.

Medico-legal Reports.—One of the duties of a medical jurist is to draw up a report of the results of his examination: 1, in regard to symptoms; 2, in regard to appearances after death; and, 3, in regard to the results of an analysis. With respect to the two first divisions of the report, I must refer the reader to the rules for investigating cases of poisoning (p. 22). It need hardly be observed that the time at which the person was first seen, and the circumstances under which the attendance of the practitioner was required, as well as the period of death, should be particularly stated. The hour, the day of the week, and the month, should be invariably mentioned. Some medical witnesses merely state the day of the week, without that of the month, or vice versâ. At a trial this sometimes creates great confusion, by rendering a reference to almanacs necessary. The words yesterday, next day, &c., should never be used. The facts which it will be necessary to enter in the report are specially stated under the heads of investigation (see p. 24). If these facts are not observed in the order there set down, their value as evidence of the cause of death, or of the criminality or innocence of particular persons, will be entirely lost. In drawing up a report of symptoms and appearances after death, the facts should be in the first instance plainly and concisely stated *seriatim*, in language easily intelligible to non-professional men. A reporter is not called upon to display his erudition, but to make himself understood. If technical terms are employed, their meaning should be stated in parentheses. When a subject is thoroughly understood, there can be no difficulty in rendering it in simple language; and when it is not well understood, the practitioner is not in a position to make any report. Magistrates, coroners, and barristers are very acute, and easily detect ignorance, even when it appears under the mask of erudition.

In recording facts a reporter should not encumber his statements with opinions, inferences, or comments. The facts should be first stated and the conclusions should be reserved until the end of the report. The language in which conclusions are expressed, should be precise and clear. It must be remembered that these are intended to form a concise summary of the whole report, upon which the judgment of a magistrate, or the decision of a coroner's jury, will be ultimately based. They should be most strictly confined to the

matters which are the subject of inquiry, and which have actually fallen under the observation of the witness. Thus, they commonly refer to the following question: What was the cause of death? What are the medical circumstances which lead you to suppose that death was caused by violence? What are the circumstances which lead you to suppose that death was *not* caused by natural disease? Answers to one or all of these questions comprise, in general, all that a reporter is required to introduce into the conclusions of his report.

The reporter must remember that his conclusions are to be based only upon *medical* facts, not upon moral circumstances, unless he is specially required to express his opinion with regard to them when they are of a medico-moral nature. Further, they must be founded only on what *he has himself seen or observed.* Any information derived from others should not be made the basis of an opinion either in evidence or in a medico-legal report. It is scarcely necessary to remark that a conclusion based upon mere *probabilities* is of no value as evidence.

In drawing up a report on the *results of a chemical analysis*, the following rules may be borne in mind. A liquid or solid is received for analysis. 1. When, and of whom, or how received? 2. In what state was it received—secured in any way, or exposed? 3. If more than one substance received, each to be separately and distinctly labelled; appearance of the vessel, its capacity, and the quantity of liquid (by measure) or solid (by weight) contained therein. 4. Where and when did you proceed to make the analysis, and where was the substance kept during the intermediate period? 5. Did any one assist you, or did you make the analysis yourself? 6. Physical characters of the substance. 7. Processes and tests employed for determining whether it contained poison. All the steps of these processes need not be described; a general outline of the analysis will suffice. The magistrate may thus satisfy himself by an appeal to others (if necessary) whether the analysis has or has not been properly made. 8. Supposing the substance to contain poison—is this in a pure state or mixed with any other body? 9. The strength of the poison, if an acid, or if it be in solution: in *all* cases, the *quantity* of poison found, determined if possible by actual weighing. 10. Supposing no poison to be contained in it, what was the nature of the substance? Did it contain anything of a noxious nature, *i. e.* likely to injure health or destroy life? 11. Could the supposed poisonous substance exist naturally or be produced within the body? 12. Was it present in any of the liquids or solids employed in the chemical analysis? 13. Was it contained in any of the articles of food or medicine taken by the deceased? 14. Is its presence to be ascribed to the use of any mineral matter employed by injection after death for the preservation of the body of the deceased? 15. What quantity of poison was actually separated in the free or absorbed state? 16. How much of the substance found would, under the circumstances, be likely to destroy life?

There are few reports in which answers to some of these questions,

although not formally put, will not be required; and unless the whole of them are borne in mind by the operator at the time an analysis is undertaken, those which are omitted can never receive an answer, however important to the ends of justice that answer may ultimately become.

There are frequently defects in these reports which it is desirable to point out. The statements are sometimes drawn up in exaggerated language: at others they are overloaded with technical and therefore unintelligible terms, and the writer is seldom sufficiently careful to keep his facts distinct from his comments. The former may be useful as evidence; the latter are inadmissible.

With respect to the first of these defects, it is very much the practice of medical men, in drawing up reports of medical cases for professional purposes, to use, unthinkingly, exaggerated language. Thus, it may be observed in the description of an ordinary post-mortem examination, the lining-membrane of the stomach is described as being "intensely" inflamed, or some part is "considerably" injected, or a cavity is "enormously" distended. Expressions thus loosely employed, convey to the legal mind a widely-different meaning from that intended by the reporter. They create also great difficulty in evidence if withdrawn or modified, a change which other circumstances may show to be necessary, and at the same time they place the witness in an undesirable position before the court. On the other hand, if retained, they may render the facts unsusceptible of explanation upon any theory of natural disease. Such descriptions obviously imply a comparison with similar conditions in numerous other dead bodies; but what is the standard by which they are really measured, and what opportunity has the witness had of creating such a standard from his own experience? In general it will be found that such expressions have been used without proper consideration from a habit acquired by the writer in reporting cases for the information of medical men only. Let him who is inclined to use them bear in mind that barristers look much more closely to the strict meaning of words than medical men, and that they are always disposed to distrust the judgment of one who cannot speak or write without resorting to the use of the superlative degree.

The free use of *technical terms* in drawing up reports may be attributed to a similar practice in the profession. Putting aside those cases in which a medical man believes that he is displaying his erudition by the selection and use of such terms, there can be no doubt that the greater number of medical practitioners fall into this practice from mere habit. They think they are addressing the report to the president and members of some medical society, instead of a coroner and jury who have never in their reading or experience met with such terms, and to whom therefore they are perfectly unintelligible. In a report on the appearances in the body of a man who had suffered from chronic insanity, which was submitted to me for explanation, the following passage occurred: "The only morbid appearance in the brain was an atheromatous deposit in the Pons Varolii, near the situation of the locus niger." In another document

the reporter stated, for the information of a coroner's jury, that the "integuments of the cranium were reflected, and the calvarium was exposed." If a reporter will use such terms as these or others of a similar kind, such as "parietes of the abdomen," "epigastrium," "hypertrophy of the liver," when it would require no more trouble to put what he means in plain English, he must be prepared to have his meaning perverted or wholly misunderstood. Setting aside the men who act as jurors, it may be observed that educated persons, such as coroners and magistrates, do not commonly include professional terms within the range of their studies. There are but few of them who understand the difference between perineum and peritoneum, or the meaning of the words hemispheres of the brain, pia mater, puncta cruenta, corpora quadrigemina, centrum ovale, &c. They are not likely to know the difference between the cardia and pylorus, nor the nature or situation of the duodenum, jejunum, ileum or cæcum, and are as ready to consider them to be parts of the liver or urinary bladder as of the intestines. On one occasion, I heard a learned judge ask for an explanation of the meaning of the terms "alimentary canal." A slight consideration will show to any medical practitioner that refined professional language is wholly misplaced in a report which is intended to inform and convince the minds of ordinary men upon plain matters of fact.

The last point which calls for comment in reference to medical reports, is the loose manner in which facts and comments on facts, as well as hearsay statements, are sometimes found blended. If a reporter takes care to eliminate facts from comment, his report is admissible and may be read at the inquest or trial as evidence. The facts are for the jury, the comments upon the facts, introduced by the reporter, may or may not be correct, and are therefore not evidence. Their correctness or relevancy to the case will be elicited in the cross-examination. As a rule, nothing should be entered in a report which is not connected with the subject of inquiry, and which has not actually fallen under the observation of the reporter. The introduction of hearsay statements, *i. e.* statements made by others, or of circumstances which have come to his knowledge through public rumor, should be carefully avoided.

Upon the medical report, and such evidence as may be required to explain it, an accused person may be committed for trial at the Assizes, either by a coroner or a magistrate. In the first stage of the proceedings, under these circumstances, the medical witness goes before the grand jury, and there, after the administration of an oath, he is required to make a general statement of what he knows of the matter. Such questions are put as may be necessary to elucidate the cause of death; and on the finding of a true bill for murder or manslaughter, the accused is placed upon his trial before one of the learned judges of Assize. According to the variable circumstances attending such cases, the medical evidence is called for at an early or late stage of the proceedings. When it is at all doubtful whether the cause of death was owing to any criminal act, it is called for at

the commencement of the case, in order to lay a foundation for further inquiry.

It is necessary that a medical witness should remember that copies of his report and depositions, either before a coroner or magistrate, are usually placed in the hands of counsel as well as of the learned judge, and that his evidence, as it is given at the trial, is compared word for word with that which has been already put on record. There is reason to believe that this is not generally known to members of the medical profession, and thus it happens that either from failure of memory, want of accurate observation, or carelessness in giving evidence at a coroner's inquest, medical witnesses lay themselves open to severe censure, either by stating matters differently at the trial, or by giving a very different complexion to the facts. Any serious deviations from what is on record will of course tell unfavorably for the witness, supply materials for a severe cross-examination, and form an excellent ground of defence for the prisoner. The witness's weakness is the prisoner's opportunity, and of course his counsel will not lose the occasion of impressing upon the jury that a man who can on oath give two different accounts of the same transaction, is not to be believed on either.

[*Dying Declarations.*—"The general principle on which this species of evidence is admitted was stated by Lord Chief Baron Eyre to be this: that they are declarations made in extremity, when the party is at the point of death, and when every hope of this world is gone; when every motive to falsehood is silenced, and the mind is induced by the most powerful considerations to speak the truth. A situation so solemn and so awful is considered by the law as creating an obligation equal to that which is imposed by a positive oath in a court of justice.

"It was at one time held by respectable authorities that this general principle warranted the admission of dying declarations in all cases, civil and criminal; but it is now well settled that they are admissible, *as such*, only in *cases of homicide*, '*where the death of the deceased is the subject of the charge, and the circumstances of the death are the subject of the dying declaration.*'

"The reasons for thus restricting it may be that credit is not in all cases due to the declarations of a dying person; for his body may have survived the powers of his mind; or his recollection, if his senses are not impaired, may not be perfect; or, for the sake of ease, and to be rid of the importunity and annoyance of those around him, he may say, or seem to say, whatever they may choose to suggest. These or the like considerations have been regarded as counterbalancing the force of the general principle above stated; leaving this exception to stand only upon the ground of the public necessity of preserving the lives of the community by bringing manslayers to justice. For it often happens that there is no third person present to be an eyewitness to the fact, and the usual witness in other cases of felony, namely, the party injured, is himself destroyed."—1 Greenleaf's Evidence, § 156.

"The persons whose declarations are thus admitted are considered

as standing in the same situation as if they were sworn; the danger of impending death being equivalent to the sanction of an oath. It follows, therefore, that *where the declarant, if living, would have been incompetent to testify, by reason of infamy or the like, his dying declarations are inadmissible;* and, as an oath derives the value of its sanction from the religious sense of the party's accountability to his Maker, and the deep impression that he is soon to render to Him the final account; *wherever it appears that the declarant was incapable of this religious sense of accountability, whether from infidelity, imbecility of mind, or tender age*, the declarations are alike inadmissible.

"On the other hand, as the testimony of an accomplice is admissible against his fellow, the dying declarations of a *particeps criminis* in an act which resulted in his own death, are admissible against one indicted for the same murder." Ib. § 157. On principle, therefore, the dying declarations of an accomplice should, to justify a conviction, require the same corroboration that is necessary where he testifies as a living witness (see Joy on the Evidence of Accomplices); but as to this the judges in Tinckler's case (1 East. Pl. Cr., 354–56) were divided, the majority, however, thinking that they were sufficient without corroboration. And as husband and wife may testify against each other in all cases of personal injuries inflicted by either upon the other, the dying declarations of either are admissible where the other party is charged with the murder of the declarant. The *People* v. *Green*, 1 Denio R. 614.

It is essential to the admissibility of these declarations, and is a *preliminary fact, to be proved by the party offering them in evidence*, that they were made under a *sense of impending death.*

It is not essential, however, that the consciousness of impending death should be expressed by the dying man himself; it may be collected either from the circumstances of the case, as the nature of the wound and state of the body, or from expressions used by the deceased. *Com.* v. *Murray*, 2 Ash. 41; *Com.* v. *Williams*, Ib. 69; *State* v. *Gillick*, 7 Clarke (Iowa), 287; *State* v. *Nash*, Ib. 347. See also *People* v. *Lee*, 17 Cal. 76; *People* v. *Ybarra*, Ib. 166; *Kilpatrick* v. *Commonwealth*, 7 Casey, 198.

The length of time which elapses between the declarations and the death furnishes no rule as to the admissibility or rejection of the evidence. In *Woodcock's* case, 2 Leach's Cr. Cas. 563, the declarations were made forty-eight hours before death; in *Tinckler's* case, 1 East. P. C. 345, ten days, and in *Rex* v. *Mosley*, Cr. Cas. 97, eleven days before death; and all were received. It is the *impression* of almost immediate dissolution, and not the rapid succession of death in point of fact, that renders the testimony admissible. Hence, where declarant at the time believed his death to be impending and certain, the declarations were competent, notwithstanding that he subsequently revived, and thought he might recover. *State* v. *Nash*, 7 Clarke (Iowa), 347.

The language of the text-books, and of the authorities generally, is, that "where it appears that the declarant had 'any hope' of recovery, however slight it may have been, and though death actually

ensued shortly afterwards, the declarations are inadmissible." 1 Greenleaf, § 158; Phillips on Evidence, 200. But in *Regina* v. *Pym* ("Law Times," 1846, p. 500), where it appeared that the declarant had a firm *belief* that death was approaching, although it appeared that he *hoped* and thought it not *impossible* that he might recover, ERLE, J., in admitting the evidence, said: "It has no doubt been held in some cases that *all hope* must be given up, but this is now decided not to be necessary. Indeed, if it were so, no declarations could be received, for scarcely a human being could be found, under any circumstances, who would not retain some *hope*. The law admits these declarations, not because recovery is impossible, but because there is a *conviction* of approaching death."

The word *hope* is used in two senses; first, as implying *belief*, *expectation;* and second, *wish* or *desire*. In the latter sense it must always exist, and that seems to be the meaning as used in the case last cited. Where it is used as synonymous with belief or expectation, its existence would render the declarations inadmissible; since "hoping" in that sense to recover would be wholly inconsistent with the alleged belief that death was impending.

The declarations are admissible only as to those things which declarant would have been competent to testify if sworn in the case, viz., *relevant facts*, not mere matters of *opinion*.

They are admissible in favor of, no less than against the party charged with the death.

It is no objection to their admissibility that they were elicited by leading questions, or by pressing and earnest urgings. They must, however, be complete in themselves: for if it appears that the declarant intended to connect them with or qualify them by, other statements, which he is prevented by any cause from making, they will not be received. 1 Greenleaf, § 159.

The circumstances under which the declarations were made are to be shown to the judge: it being his province, and not that of the jury to determine whether they are admissible. *Com.* v. *Murray*, 2 Ash. 41; *McHugh* v. *State*, 31 Alabama, 317; *People* v. *Glenn*, 10 Cal. 32; *State* v. *Howard*, 32 Vermont, 380.

Still, however, the credibility of the evidence is entirely with the jury, who, if *they* do not believe that the deceased really was in such circumstances as the other witnesses may have testified to, may give no weight to the declarations.

If the statement of the deceased was reduced to writing, and signed by him, it must be produced, if existing, and secondary evidence of the declarations cannot be admitted. *State* v. *Tweedy*, 11 Iowa, 350. But it is not essential that a subscribing witness thereto should be produced, or his absence accounted for. *McHugh* v. *State*, 31 Ala. 317. And where the declarations had been repeated at different times, at one of which they were under oath, and informally reduced to writing by one witness, and at the others they were not, it was held that the latter might be proved by parol, if the other could not be produced. *Rex* v. *Reason*, 1 Str. 499, 500; *State* v. *Tweedy*, *supra*. So, if the deposition has been taken, and is inadmissible as such for want

of compliance with some statutory requirement, it seems it may still be treated as a dying declaration.

Great caution, however, is to be observed in the use of this kind of evidence, because it is to be recollected that the accused may not have been confronted with the declarant, nor does he ever have the power of *cross-examination*, which is quite as essential to the eliciting of all the truth as the obligation of an oath can be. Besides which, the particulars of the evidence, to which the deceased has spoken, are in general likely to have occurred under circumstances of confusion and surprise, calculated to prevent their being accurately observed; and leading both to mistakes as to identity of persons, and to the omission of facts essentially important to the completeness and truth of the narrative. 1 Greenleaf, § 162; Evans's Pothier on Obligations, 255.

In the case of *Commonwealth* v. *Lamb*, tried in the Oyer and Terminer of Philadelphia, in March, 1854, the deceased, who died from the effects of blows upon the head inflicted by a gang who attacked him in the dark, had declared positively that the defendant was the person who had struck him. The declarations were not received because of failure in the preliminary proof, and the prosecution was abandoned. The defendant was a very respectable young man, and could have clearly established his innocence, but the case showed how little reliance can be placed on this species of evidence, especially in questions of identity. (See, also, a case mentioned in the former edition of this work, p. 179.)

The objection, that receiving dying declarations was a violation of the article of the Declaration of Rights that every subject shall have a right to confront the witnesses against him face to face has been made, but not sustained by the courts. *Com.* v. *Carey*, 12 Cush. (Mass.) 246; *Burrell* v. *State*, 18 Texas, 713; *People* v. *Glenn*, 10 Cal. 32; *State* v. *Nash*, 7 Clarke (Iowa), 347.

It is to be observed that while dying declarations are restricted to the case of trial for the homicide of the declarant, this applies only to declarations offered on the sole ground that they were made *in extremis;* for where they constitute part of the *res gestæ*, or come within the exception of declarations against interest, or the like, they are admissible as in other cases; irrespective of the fact, that the declarant was under apprehension of death.

It is evidently, however, no part of the duty of the medical witness or other person present when declarations are made to determine whether they will be admissible or not. This question is to be left to the judges before whom the case shall be tried; and the witness should carefully remember what is stated, writing it down immediately, or at the earliest moment possible, stating *all* that was said, and using the *identical language* of the declarant, not simply giving what he conceives to be the meaning or substance of it.—P.]

CHAPTER II.

CORONERS' INQUESTS.—TRIAL AT THE ASSIZES.—SUBPŒNAS.—EXAMINATION IN COURT.—DUTIES OF MEDICAL WITNESSES.—RULES FOR THE DELIVERY OF EVIDENCE.

Coroners' Inquests.—The proceedings at coroners' inquests are treated too lightly by medical men. The ignorant and uneducated class of persons who often constitute the jury, as well as the circumstances under which the inquiry usually takes place, are not calculated to inspire great respect for these initiatory proceedings; but still by law and custom coroners' inquisitions are and have been for ages in this country, the only tribunals for inquiring into and determining the cause of death in cases of suspected violence; and they are therefore deserving of more attention than is usually shown to them by medical witnesses. As a rule, in all inquests which are likely to end in a committal of the accused person, a medical man who is giving his evidence before a coroner, in the room of a small country inn, or in a village school-room, is virtually delivering it before a judge of assize; and this fact alone, if not a respect for the court, should induce him to give the evidence guardedly, and with a due consideration to the serious results to which it may ultimately lead. The 4th Edward I. stat. 2, on which coroners profess to act, directs that "upon information," they shall "go to the place where any be slain or suddenly dead," and make due inquiry as to the cause, &c., before a jury selected from persons living in the neighborhood. The information upon which a coroner generally acts is, 1. Notice from a beadle, or other officer of the parish (whose zeal is sometimes stimulated by a fee or salary), of any death from sudden or supposed unusual causes. 2. Notice from a medical man who may have attended the deceased, and who communicates his suspicion that the cause of death is not natural. 3. Notice from a registrar of deaths that no cause has been assigned in a particular case, or that there has been a rapid death after a short illness. The conclusion to which experience leads in reference to these inquiries is, that the system affords no certainty for the detection of crime; that it affords no protection to those who are wrongly charged with crime; and lastly, that in some cases it screens a criminal by a verdict based upon an imperfect inquiry, in which the important medical facts are either not understood, or are misinterpreted by the jury.

Many persons who occupy the office of coroner are neither medically nor judicially qualified for the proper performance of the duties of the office. The system of electing a man to hold such an office as this (one demanding special *medical* knowledge of the causes of death,

and good *legal* knowledge of the law of evidence) by freeholders of the lowest degree, is so intrinsically absurd, that it is quite wonderful how, with improved civilization, it has maintained its ground in such a country as England. The election of a Lord Chancellor, of the judge of our courts of law, or of County Court judges, might be with equal reason left in the hands of voters of this class, men who have no knowledge of the duties of the office, or of the skill and learning required in one who is really competent to fill it. The election of a good and capable person as coroner is, therefore, a matter of pure accident. No preliminary test of ability or capacity is required.

In Scotland, the office of coroner does not exist, but in place of this there is an officer named Procurator Fiscal, generally a skilled solicitor, nominated by competent authority, and not elected by scot and lot voters. The general order issued to these officers by the Lord Advocate, enjoins that in cases where a dead body is discovered, the Procurator Fiscal shall obtain a medical report of the cause of death; and in cases of persons found dead, the body is generally inspected for this purpose. This, however, is at the option of the appointed officer, the instruction being in these words: Wherever in his opinion a written medical report is necessary for the due consideration of the case, he, the Procurator, shall obtain such a report from a duly qualified medical practitioner." The usual practice in England is to select the *nearest* medical practitioner, whether he has had any experience or not, and often to trust an important and delicate pathological and chemical inquiry in the hands of one who probably has never before made an inspection or an analysis.

Under the present system coroners are empowered by the Medical Witnesses' Act (6 and 7 William IV. c. 89) to issue an order for the attendance of any legally-qualified practitioner, "being at the time in actual practice in or near the place where the death has happened;" a fee of two guineas is the maximum allowed for making a post-mortem examination, and, if considered necessary by the jury, a chemical analysis of the stomach and intestines. A penalty of five pounds is attached to disobedience of this order, except for reasonable cause. Mr. Rumsey has correctly represented the unsatisfactory position in which medical men are placed by such an arrangement. He observes: "It is no discredit to a practitioner engaged in the toilsome routine of ordinary medical duties, if he should feel himself at a loss when called upon for a decisive opinion in some obscure case of poisoning or infanticide. His scanty opportunities for the study of these subjects and for making post-mortem examinations cannot suffice to qualify him for answering the delicate and important questions which he must answer before a jury can find a proper verdict." . . . "The custom of indiscriminately summoning medical practitioners of all sorts, and of all degrees of pathological knowledge and forensic skill has sadly depreciated the value of medical evidence in courts of justice. Public confidence in the profession has been shaken, and the appearance of a 'doctor' in the witness-box is but too often a signal for sport among gentlemen of the long robe." ("Essays on State Medicine," p. 356.)

No medical man can be compelled to undertake that which he feels incompetent to perform, and some medical practitioners who have felt this want of experience have properly declined to make chemical analyses involving so serious a responsibility. It is thus that, in many cases of importance, analyses for coroners' inquests are now referred to chemical experts, and the practitioner discharges himself of that responsibility which the Medical Witnesses' Act imposes upon him without any adequate remuneration.

Before quitting this subject, it is necessary to observe that medical men are too ready to give their opinion of the cause of death for a coroner's inquest without making an inspection of the body. No man is compelled to give an opinion upon insufficient data, and if by the institution of a judicial inquiry there are grounds for believing that a death has not been natural, no medical opinion of the cause should be given in the absence of an inspection. Such an opinion must always be conjectural, and may involve the medical man in an unpleasant responsibility.

Trial at the Assizes.—The next stage of the proceedings in a criminal case brings a medical witness before a superior court. For this purpose a *subpœna* is issued. It need hardly be observed that every witness is bound to obey a subpœna, when with it his reasonable expenses for journey, &c., are tendered to him, but he is not bound to attend at the trial except upon a subpœna. [In criminal cases no tender of fees, &c., is in general necessary on the part of the government, in order to compel its witnesses to attend; it being the duty of every citizen to obey a call of that description, and it being also a case in which he is himself in some sense a party. But his fees will in general be finally paid from the public treasury. In all such cases, the accused is entitled to have compulsory process for obtaining witnesses in his favor. (1 Greenleaf's Ev. § 311.)—P.] There are some questions connected with this subject which it will be proper to consider in this place. *If a subpœna is served on an ordinary or skilled medical witness, is he bound to obey it?* In *Betts* v. *Clifford* (Warwick Lent Assizes, 1858) the late Lord Campbell stated, in answer to a question, that a *scientific witness* was not bound to attend upon being served with a subpœna, and that he ought not to be subpœnaed. If the witness knew any question of *fact*, he might be compelled to attend, but he could not be compelled to give his attendance to speak to matters of *opinion*.

In *Rich* v. *Pierpoint*, an action for malapraxis, Dr. Lee was summoned against his will to give evidence on the part of the plaintiff. He stated that on the evening before the trial a solicitor called on him, and left a subpœna with him. Dr. Lee would not hear any account of the case which the solicitor proposed to give, and expressed his resolution to have nothing to do with the trial. The solicitor informed him that he would be required to pay the usual penalty if he did not attend. He went down to Kingston, and was warned not to leave the court until the trial was over. He heard the evidence on the part of the plaintiff, and upon this and the medical evidence he gave his opinion—not much in favor of the party who summoned

him, and not much against him. Dr. Lee considered that he could not avoid attending the trial under these circumstances. ("Medical Times and Gazette," April 12, 1862, p. 389.)

In the case of *Webb* v. *Page* ("Carrington's and Kirwan's Reports," p. 23) the late Mr. Justice Maule ruled as follows: "There is a distinction," said his lordship, "between the case of a man who sees a fact and is called to prove it in a court of justice, and that of a man who is selected by a party to give his opinion on a matter on which he is peculiarly conversant from the nature of his employment in life. The former is bound, as a matter of public duty, to speak to *a fact* which happens to have fallen within his own knowledge—without such testimony the course of justice must be stopped. *The latter is under no such obligation;* there is no such necessity for his evidence, and the party who selects him must pay him." In the case referred to by Mr. Justice Maule, a skilled witness had been subpœnaed, but he refused to give evidence unless first paid for his services and loss of time. ("Medical Times and Gazette," April 26, 1862, p. 432.) A barrister, who quotes this ruling, goes on to say: "There is one reason why I should not advise any person in the position of a skilled witness totally to disregard a subpœna. It is quite clear that should such a person fail to attend a trial no attachment could issue, even if he were called as is usual upon the subpœna, because the party subpœnaing him could not make the requisite affidavits that he was damnified by the witness's absence, and in what respect. But such party might bring an action for damages; and although he would recover none, he might not only worry, but might even put the defendant to a considerable expense, as taxed costs by no means include the entire costs in such cases. Although, therefore, I could not advise a total neglect of the subpœna, the safest course would be to obey it, and demand expenses before giving evidence. Such expenses would be only those allowed for a professional witness (not special fees), but if the person so subpœnaed were willing to run the risk of an action, he might safely absent himself without any fear of an attachment from the court for contempt." With regard to the question whether a skilled witness would be permitted to demand a high fee for his attendance under such circumstances, the writer adds: "To permit him legally to demand a high fee would perhaps look somewhat like legally countenancing a bribe." At all events there is no such legal recognition.

Lord Campbell's dictum in reference to the distinction between fact and opinion confers no practical benefit on witnesses. It is at all times difficult in science, and in the medical sciences particularly, to separate them; and if a man appears to testify to a medical or scientific fact, he cannot avoid giving an opinion arising out of the fact. In a recent action against a druggist for a mistake in compounding medicine, an attempt was made to procure my *opinion* as a skilled witness at the trial, by reason of *facts* obtained from the report of a chemical analysis, the real object of which was at the time entirely concealed. The suit was fortunately compromised, and my attendance was not necessary, but such a case should convey a caution to

chemical experts. They may be employed secretly and under untrue statements to make analyses; these become *facts* on which they may be summoned like ordinary witnesses to give *opinions*, as skilled witnesses, while the payment of the usual fee for a skilled witness is evaded.

Medical Witnesses.—Assuming that the medical man has obeyed the subpœna, he will now be required to attend before the court, and to state, in the face of adverse counsel, the opinions which he has formed from the medical facts of the case, as well as the grounds for these opinions. He will then, for the first time, undergo the ordeal of a public examination.

Some medico-legal writers have considered it necessary to lay down rules respecting the manner in which a medical witness should give his evidence; how he is to act on a cross-examination, and in what way he is to recover himself on re-examination. Any advice upon this head appears to me to be quite superfluous; since experience shows that these rules, like those given to prevent drowning, are invariably forgotten at the very moment when the individual is in the situation in which it is supposed he most requires them. A man who goes to testify to the truth to the best of his ability should bear in mind two points. 1. That he should be well prepared on all parts of the subject on which he is about to give evidence. He should act on these occasions upon the advice contained in the Latin motto, *ne tentes aut perfice*. 2. That his demeanor should be that of an educated man, and suited to the serious occasion on which he appears, even although he may feel himself provoked or irritated by the course of examination adopted. A medical witness must not show a testy disposition in having his professional qualifications, his experience, his means of knowledge, or the grounds for his opinions very closely investigated: he should rather prepare himself to meet with good humor the attempts of an adverse counsel to involve him in contradiction, and show by his answers that he has only a desire to state the truth. Law and custom have long established that a barrister, in defending a prisoner charged with murder, has a right to make use of all fair and even what may appear to the witness unfair means for the defence. Nothing can tend more to lower a witness in the opinion of the court and jury, or diminish the value of his evidence, than the manifestation of a disposition to deal with his examiner as if he were a personal enemy, to evade the questions put, or to answer them with flippancy or anger. All such exhibitions invariably end in the discomfiture of the witness. It has been suggested that medical men on these occasions might take a lesson from lawyers, and observe how little they allow forensic differences, which they put on with their professional costume, to influence them in their intercourse with each other or with an adverse judge or jury.

Medical men have complained, and on many occasions justly, of the *license of counsel*. On this subject it may be well to consider what has been said by one of the highest authorities on the bench, Chief Justice Erle: "The law trusts the advocate with a privilege in respect to the liberty of speech which is in practice bounded only by his own

sense of duty; and he may have to speak upon subjects concerning the deepest interests of social life, and the innermost feelings of the soul. The law also trusts him with a power of insisting upon answers to the most painful questioning, and this power again is in practice only controlled by his own view of the interests of truth." (Judgment in *Kennedy* v. *Broun*, 1862.) Thus it will be seen that almost unlimited powers of interrogation are intrusted to counsel by the law, and it is a serious question whether the unrestricted use (which it has been justly remarked means only the frequent abuse) of these enormous powers is necessary or even favorable to the administration of justice.

One of the most severe reprimands on this abuse came from the same learned judge in a case which was before him in 1857; it was addressed to a learned sergeant now deceased, and was to this effect—A question had been put throwing on the witness an imputation for which there was really no foundation. The learned judge then said: "The freedom of question allowed to the bar was a public nuisance, and the barrister who made such an imputation ought to be prosecuted. If a question had relation to the truth, he was most anxious it should be put, but to cast haphazard imputations at the suggestion of a person (an attorney) who might have no scruples as to what he did, was a degree of mischief that made him wish that a party should be prosecuted. He begged leave to say that in his experience he had seen counsel so abuse their privilege, that he had cordially wished a power could be instituted that they might be prosecuted for a misdemeanor." It is the general practice to say that the obnoxious questions are in the instructions, but a barrister can always exercise a power of putting or not putting a question which may be found there. But putting it he clearly adopts it, and frequently to the great damage of his own case. This is at present the only check upon the practice, for learned judges seldom interfere unless directly appealed to by the witness.

Some medical men have claimed a privilege not to answer certain questions which are put to them, on the ground that the matters have come to their knowledge through private and confidential communications with their patients. It is right to state at once that the law concedes no special privilege of this nature to members of the medical profession. No man is bound to reply to any question if the answer would tend in any way to incriminate himself—for no man is compelled to be a witness against himself. With this exception all questions must be answered, provided they are relevant to the case, and their irrelevancy is a matter for the consideration of the learned judge who presides. A witness must remember, therefore, that there are *no medical secrets*.

In the case of the *Duchess of Kingston* this privilege of withholding statements was claimed by a medical witness but rejected. In a case in which a female was indicted for the murder of her infant, a surgeon was called to prove certain confessions made to him by the woman during his attendance. He objected, on the ground that he was then attending her as a private patient. The learned judge

(Park, J.) said this was not a sufficient reason to prevent a disclosure for the purposes of justice, and he was ordered to answer the questions. (Beck's "Med. Jurisprudence," vol. ii. p. 922.) Any statements therefore which are made to physicians or surgeons while attending persons in a private capacity, although they are not to be volunteered in evidence, must be given in answer to questions, whatever consequences may ensue. Cases of poisoning and wounding, duelling and child-murder, as well as cases which involve questions of life-insurance, divorce, or the legitimacy of offspring, may be materially affected by the answers of the medical man on matters which have been the subject of private communications. A professional man who claims a privilege where none is allowed is simply endeavoring to set himself above the law. It is absurd to suppose that there is any real breach of confidence under these circumstances, because, as Dr. Gordon Smith justly observes, "Society in general receives the authority of courts as paramount to all obstacles and private considerations," so that in yielding to such authority, a professional man will be fully acquitted even in the opinion of those who may be the sufferers. The expressed opinion of the judge will be a full indemnity for the witness. ("Analysis of Medical Evidence," p. 98.) Any medical man, however, who voluntarily violated the confidence reposed in him by a patient, or who communicated professional secrets to counsel apart from a public necessity in court, would justly lay himself open to severe censure.

In *Wright* v. *Wilkes* (June, 1865), a suit involving the validity of the will of a lady, the only question before the Vice-Chancellor (Kindersley) was as to the costs, occasioned by the refusal of a medical witness to answer a question as to the disease of which the testatrix died. The witness had attended the testatrix, and on being asked of what disease she died, he refused to answer, on the ground of professional privilege, and also that the question was irrelevant. The Vice-Chancellor said, that he could not possibly see the relevancy of the question, and, further, of what use it was to examine witnesses at all in the cause. No reason was given for so doing. The question of costs would, *primâ facie*, have been left till the hearing but that it was a dangerous precedent to allow a witness to decline answering on such grounds. His honor was clearly of opinion that the witness could not claim professional confidence or irrelevancy as an excuse for not answering the question, and he must pay the costs. From this judgment it will be perceived that, even the refusing to answer an irrelevant question may lead to the infliction of a heavy penalty on a medical practitioner. A man who refuses to answer a question which the court considers to be relevant and proper, may render himself liable to imprisonment for contempt of court. [By the Revised Statutes of New York (vol. ii. p. 652, § 103), and of Missouri (Code of 1835, p. 623, § 17), "No person duly authorized to practise physic or surgery shall be allowed to disclose any information which he may have acquired in attending any patient in a professional character, and which information was necessary to enable him to pre-

scribe for such patient as a physician, or to do any act for him as a surgeon."—P.]

This question of medical privilege has presented itself on some recent occasions in a medico-ethical aspect, as where, for instance, during his attendance on a patient a suspicion arises in the mind of a medical man that the person is undergoing slow poisoning. It has been supposed that when, under these circumstances, the poisoner was in the medical profession, there would be a breach of etiquette in communicating to others the suspicion entertained. There is no code of medical etiquette by which any member of the profession is bound to conceal the fact of poisoning which he believes to be going on before his eyes, whether perpetrated by a medical man or any other person; and at the same time there is a higher code of ethics which makes the prevention of secret murder and the safety of society paramount to all other considerations.

A medical man must take care not to charge another with a serious crime upon loose suspicions. If from the nature of the symptoms, the absence of any natural cause for the illness, and the inefficiency of ordinary remedies, he suspects that the patient is under the influence of poison, it is his duty to lose no time in confirming or removing that suspicion by a proper medical and chemical investigation. If his suspicion is confirmed by the discovery of poison in the food or urine, then steps must be immediately taken to save the life of the patient. In *Reg.* v. *Wooler* (Durham Winter Assizes, 1865), in which the prisoner was charged with the murder of his wife by secretly administering to her arsenic, three medical gentlemen were in attendance. There was a suspicion that arsenic was being administered to the deceased nineteen days before her death, but the fact was not made known because these gentlemen were unable to satisfy themselves conclusively that arsenic was present in the urine. They appealed to a high authority to aid them, but the advice reached them too late—the patient had died, and, as it was clearly proved, from the effects of arsenic. The learned judge who tried this case said, "When the idea of poisoning struck them they ought to have communicated their suspicion to the husband if they did not suspect him, and if they did suspect him, they ought to have gone before a magistrate, and not have gone on from the 8th to the 27th of June seeing the woman murdered before their eyes." Dr. Christison, in commenting upon this case, very properly takes exception to this advice, and there can be no doubt that any man acting upon it would expose himself to an action for slander. "Ideas" of poisoning often arise in cases of disease where the symptoms deviate a little from the ordinary course, but they are dismissed on further observation. If, in the absence of the means or knowledge of applying chemical tests, or of taking the opinion of others experienced in toxicology, a medical man charged the husband of a lady with secret poisoning, or went before a magistrate and charged him publicly, he would be acting with rashness, ruin his own practice and reputation, and be mulct in heavy damages for the irreparable injury done by a false accusation. Such a step should be taken upon something more than an idea or a

suspicion. A prudent and conscientious man will always await the result of a chemical analysis before giving publicity to a suspicion which may after all turn out to be quite unfounded; and he will lose no time in obtaining this necessary confirmation or a removal of his doubts.

When the suspicion is confirmed, there is some difference of opinion as to the course to be pursued. Dr. Christison advises that when the medical man is satisfied of the fact of poisoning he should communicate his conviction to the patient himself, and that he ought not to be deterred by the chance of injury to his patient from making even so dreadful a disclosure. He will have thus taken the surest preparative step to prevent a repetition of the poisoning. Whether this communication be made to the patient or not, the proper course will be to place the matter immediately in the hands of a magistrate for investigation. Some years since I was consulted in a case of supposed slow poisoning. The symptoms suffered by a lady, taken as a whole, were not reconcilable with any disease. The medical gentleman had an "idea" that poison might possibly be the cause, but before acting upon this idea he sent to me a portion of urine for examination. Antimony was found in it, and the cause of the symptoms was at once explained. He communicated the result of the analysis to the members of the family, and the symptoms of poisoning ceased from that time! The error committed by medical men even on these occasions is not in claiming a privilege of concealment, but in allowing a doubt upon so serious a question to remain in their minds for days or weeks.

This question was again brought into prominence at the trial of *Dr. Pritchard*, at Edinburgh (July, 1865), on the charge of poisoning his wife with antimony. One of the medical witnesses, who saw the deceased a fortnight before her death and at other times, stated in his evidence at the trial that he suspected she was suffering from the effects of antimony when he first saw her, but it seems that there the matter was allowed to remain. No one was accused, but no step was taken to prevent the continuance of the poisoning, the suspicion of which turned out to be well-founded. The Lord Justice Clerk, who tried this case, is reported to have said that no notions of medical etiquette should be permitted to interfere with those higher duties which every right-minded man owes to his neighbor, and which are to be expected in a tenfold degree from every medical man, because his life is solemnly devoted to the preservation of life, and the prevention of its destruction.

Examination-in-chief.—The ordinary course of proceeding in a criminal case is thus concisely stated by Mr. Fitzjames Stephen ("Criminal Law of England," pp. 168, 282). After opening the case the counsel for the crown calls the witnesses, and examines them according to the rules of evidence—that is, he brings out, by questions *which do not suggest their answers*, the facts relevant to the issue to be tried which are within his personal knowledge. Those questions which suggest the answers are called "leading" questions. With one exception it is not the practice to allow these to be put in

this part of the examination. The exception according to Mr. Stephen is: "When the judge is satisfied, either by a witness's demeanor or by contradictions between the evidence and the depositions, that he is trying to keep back the truth and favor the prisoner, he may, in his discretion, allow the counsel for the crown to ask leading questions, and, as the phrase is, to treat the witness as hostile." When the examination-in-chief is closed, the next step is the cross-examination.

Cross-examination.—In this, the second stage, the counsel for the prisoner extracts from the medical witness, by questions *which may suggest the answers in the strongest form*, any facts that may appear to be favorable to the client, and which he believes to be within the witness's knowledge. Leading questions are not only allowable in this part of the examination, but, according to good authority, a counsel for the defence can hardly lead too much. The theory of the law is that the witness is unfavorable to the prisoner and has come to bear evidence against him. The more he has shown himself by conduct or conversation a partisan in the case, the more severely will he be treated. Anything which he may have said in the hearing of others, or published in journals, or even written in private letters (if the contents transpire) in reference to the case or the guilt of the prisoner, is now brought to light, although he may have supposed that what he did say was in perfect confidence. It is at this stage of the case that any exaggerations which may have been most favorably received by the counsel for the prosecution are reduced to their true proportions. Any bias by which the mind of a witness may have been influenced, or any imperfection or confusion of memory as to facts, is here brought out. (Stephen, p. 177.) It is in this part of his examination that the witness will be closely questioned as to his qualifications, the time during which he has been engaged in practice, the accuracy of his judgment, his general professional knowledge, and his special experience in reference to the matter in issue, the number of cases he has seen, &c. Straightforward answers should be given to all questions. No harm can be done to the witness by the answers unless they are given evasively, since it is not to be supposed that the witness wishes to represent himself differently from what he is. If he does make the attempt, he will assuredly fail. The most striking distinction between the examination-in-chief and cross-examination is in reference to leading questions. It rests upon the assumption that there is a danger that a witness will say whatever is suggested to him by the one side, and conceal everything that is not extorted from him on the other. It need scarcely be observed that witnesses whose evidence is of little importance in the case are rarely cross-examined. This is reserved in its most stringent form for those whose facts and opinions are likely to affect the fate of a prisoner in a criminal trial. In dealing with a skilled witness whose evidence may be of importance, the questions in cross-examination are usually put by the counsel for the prisoner with great caution, or the answers brought out may be more adverse to his own case than those elicited in the examination-in-chief.

Re-examination.—The cross-examination is usually followed by a re-examination on the part of the counsel for the crown, or of the counsel by whom the witness has been called. The object of this is to clear up or explain any portion of the evidence which may have been rendered obscure or doubtful by the cross-examination. It is sometimes unnecessary to put a question, and if the witness has given his evidence consistently and fairly no questions may be asked. As a rule the re-examination must be confined to those matters which have arisen out of the cross-examination. Any questions upon new subjects may render a further cross-examination on them necessary. In reference to *facts*, a medical witness must bear in mind that he should not allow his testimony to be influenced by the consequences which may follow from his statement of them, or their probable effect on any case which is under trial. In reference to *opinions*, their possible influence on the fate of a prisoner should inspire caution in forming them, but when once formed they should be honestly and candidly stated without regard to consequences. It will be well to remember, in reference to each stage of the examination, what a great medical authority has said: "To make a show and appear learned and ingenious in natural knowledge may flatter vanity. To know facts, to separate them from supposition, to arrange and connect them, to make them plain to ordinary capacities, and above all to point out their useful applications, should be the chief object of ambition." (William Hunter.)

Quotations from Books.—It is a not unfrequent custom with counsel to refer to medical works during the examination of a witness. He is expected to have a fair knowledge of the writings of professional men on the subject of inquiry. The authority is mentioned, the passage is quoted, and the witness may be then asked whether he agrees with the views of the author or whether he differs, and if so, his reasons. In cases connected with medical treatment, the views of the profession are and have been so various, that a barrister would have no great difficulty in finding some book to oppose to the opinions of a witness. Standard works of recent date are so well known to the profession that there are few medical men engaged in practice who are not well acquainted with and able to explain the views of the writers, and how far they agree or conflict with his own. The witness must be on his guard that the question is fairly put, and that it is properly taken with the context, or he may unexpectedly find himself involved in a difficulty. On one occasion, I found that a learned gentleman stopped in his quotation at a comma, and on another occasion the quotation ended at a colon—the remainder of the sentence in each case materially weakening the inference which it was intended to draw with the apparent sanction of the witness.

Presence in Court.—In England medical and scientific witnesses, except under special circumstances, are allowed to be present in court and hear the whole of the evidence in the case. This is in some instances absolutely necessary if the court requires medical opinions, for unless the witnesses are fully acquainted with the facts they can give no opinions, and they can only become fully acquainted with

the facts by being allowed to be present and hearing the evidence in court. If excluded, the judge or counsel will be compelled to read to the witness notes of the evidence before an opinion can be given, and it may then appear that some small point which counsel did not think of importance is omitted; this if known to the witness might, however, materially affect his opinion. A failure of justice is likely to occur when medical witnesses are excluded, and it is generally when there is no defence or a false defence that the right of excluding them is exercised. The rule in Scotland is similar; medical and scientific witnesses are allowed to be in court during the trial.

The examination of the witnesses for the crown is followed by the defence of the prisoner, either in person or by his counsel, who acts throughout the part of an advocate, simply securing for his client every advantage the facts or the law may afford him. In other words, he sees that his client is strictly tried according to law, and not condemned contrary to law. A key to some of the difficulties which medical witnesses must be prepared to encounter will be found in the exposition given by Mr. Stephen of the tacit rules which regulate the duties of counsel for the prosecution and defence: "In practice it is universally admitted that the counsel for the prosecution is morally and professionally bound always to keep in sight the ultimate object—namely, the discovery of truth; whereas no such obligation is laid upon the prisoner and those who represent him, because it is too much to expect of human nature that they should discharge it, and it is better not to impose an obligation which is sure to be systematically violated. Both sides, on the other hand, are bound in the strongest way *not to do anything to propagate falsehood.* The counsel for the crown is bound not to suppress any fact within his knowledge favorable to the prisoner; and, on the other hand, the counsel for the prisoner is bound not to bring to light facts within his knowledge unfavorable to the prisoner." "The counsel for the crown may not use arguments to prove the guilt of the prisoner which he does not himself believe to be just, and he is bound to warn the jury of objections which may diminish the weight of his arguments; in short, as far as regards the evidence which he brings forward, his speech should as much as possible resemble the summing-up of the judge. He should contend not for the success of his cause at all events, but for the full recognition by the judge and jury of that side of the truth which makes in favor of it. On the other hand, the counsel for the prisoner may use arguments which he *does not believe to be just.* It is the business of the jury, after hearing the judge, to say whether they are or are not just." (Op. cit., pp. 160 and 168.) The last remark shows what appears to be a serious defect in the administration of the criminal law. While in a case of misdemeanor a prisoner may be tried by a special jury, in a case of felony, involving an analysis of important questions of medical science in reference to murder or manslaughter, the trial takes place before a common and comparatively ignorant jury. Such a jury is hardly in a position to cope with an ingenious counsel, who has it in his power to misrepresent and distort medical facts and opinions in any manner that he

pleases. The defences made are frequently such as no barrister would venture to place before a jury of educated men. These "powerful" or "forcible" addresses, as they are termed by the press, full of burning eloquence and impassioned logic, have frequently withdrawn the attention of the jury from the real facts, and have procured verdicts of acquittal contrary to the evidence and all the medical circumstances of the case.

Another observation made by Mr. Stephen more nearly concerns the medical witness: "There are many obligations which effect each side equally. Neither is at liberty to attempt to browbeat, intimidate, or confuse a witness, although they may expose any real confusion which exists in his mind, or test, by the strictest cross-examination, the accuracy of his statements. Neither is at liberty wilfully to misunderstand a witness, or to *misstate, in his address to the jury*, the effect of what he has said, either by distortion or suppression. The neglect or observation of these and other rules of the same kind practically establishes a wide distinction, and one which is easily recognized, between those who exercise a noble profession and those who disgrace it." (Op. cit., p. 168.)

The treatment of a medical witness, in passing through the ordeal of an examination at a criminal trial, will depend therefore very much upon the class of counsel who is opposed to him. Assuming that he is properly prepared for the discharge of his duties, and that the questions put to him are answered fairly and truly, according to his knowledge and experience, without exaggeration or concealment, he has no reason to fear any attempt at intimidation. Barristers, for the most part, know that by this line of conduct they lose more with the jury than they gain by the attempt to confuse the witness; and as their ultimate and sole object is a favorable verdict, they will generally avoid conduct which must necessarily place this verdict in jeopardy.

The normal barrister, as depicted by Mr. Fitzjames Stephen, is not at liberty in his address to the jury, to misrepresent, either by distortion or suppression, the medical facts or opinions given in a case. According to my experience, however, misrepresentation is a not unfrequent practice, and one of which medical witnesses have very strong reason to complain. Whether such misstatements are wilful or not it may be difficult to determine, but their effect on the jury is well known to those who employ them, and they frequently escape the observation of the counsel on the other side, and even of the learned judge, unless he is well versed in medical subjects. It is also worthy of remark, that if a misstatement is thus made, it is by a remarkable coincidence always in favor of the view of the counsel who makes it, when a proper examination of his notes would, in general show him that he was wrong.

Then as to the question of intimidation, this is sometimes carried very far. On a trial for murder by poisoning, I have heard a respectable country practitioner, who had given his evidence for the crown in a fair and proper manner, thus addressed in cross-examination by a learned counsel, now deceased: "On your oath, sir, and in the face

of the whole profession, will you venture to persist in that statement?" &c. It may be that criminal cases fall more into the hands of the second class of barristers to whom Mr. Stephen alludes—namely, those who disgrace a noble profession. But it is a widely spread opinion in the medical profession, that this style of examining educated men, who are perhaps compelled most unwillingly to appear on a subpœna to testify to facts, is certainly not adapted to elicit the truth, but rather to favor the escape of criminals and give impunity to crime.

It may be fairly admitted that a man who puts himself forward as a witness, and attempts to elucidate what he only succeeds in rendering more obscure, should receive no favor at the hands of the bar. Dr. Elwell, a member of the legal as well as of the medical profession, observes that "No witness is ever compelled to appear and testify to what *he does not know.* He may be compelled to attend in court in obedience to a subpœna, but if he attempts to testify upon a subject requiring *opinions* upon which he has no well-settled or well-defined ideas, it is his own fault, and he alone is to blame; for no one but himself can know so well as he, until he has exposed himself, how unfit he is for the occasion." (Medico-legal Treatise on "Malpractice and Medical Evidence," by J. J. Ewell, M.D., Member of the Cleveland Bar, New York, 1860, p. 302.) But let us take the case of a practitioner, who, in a country district, has gone through twenty years of practice with honor and credit in his neighborhood, and who is suddenly called to a case in which a man is found dead from a wound in his throat. Under the Medical Witnesses' Act he is compelled to make an examination of the body for a coroner's inquest. At a great loss of time, and for no adequate remuneration, he attends the inquest and gives his evidence; he is bound over, *nolens volens*, to appear for the first time as a witness at a criminal trial, and to testify, 1st, to the throat being cut, and 2dly, to give his opinion to the court on the cause of death, and whether the wound was inflicted by the deceased on himself, or by another person. A medical man who limited himself to the statement of the bare fact that the deceased's throat was cut need not appear at all, for this evidence might be supplied by a constable or policeman; but the law presumes from his profession, that the medical man made a proper examination of the wound, with a view to determine to the best of his ability, whether it was the cause of death and whether it was or was not self-inflicted. It is difficult to understand how a medical man, although before this occurrence he may never have seen a case of cut-throat, could excuse himself from giving an answer to these questions, both of which involve purely matters of *opinion.* If he excused himself altogether from giving answers, there would be a failure of justice, and no conviction for such a common form of murder could ever take place. If, on the other hand, he answers these questions to the best of his ability, he may reasonably complain that while thus compelled to appear as a witness to testify to what he does know, his evidence should, by rules of law, be made the subject of abuse and ridicule before his neighbors, when he expresses his *opinion* from the facts;

and that the counsel who examines him legally possesses an unlimited power of misrepresenting his views. A medical man is certainly not benefited by being described as an ignoramus or a blunderer in his profession, whom no one ought to trust. The truth is, in medical evidence facts and opinions cannot be separated, and if medical practitioners were restricted in their evidence only to those facts which they had observed in a case, in which no other professional man saw the person living or dead, it is difficult to understand how crime could be detected and punished. These remarks of course do not apply to cases in which the opinions of medical experts can be taken. Here it would be desirable that one who has not had experience on the subject should avoid giving any opinion; he might simply state the facts, and decline from want of experience to give an opinion on the conclusions to which they lead. In pursuing any other course, he will find that the whole weight of the cross-examination will fall upon him.

There are other remarks on this subject made by Dr. Elwell, which those who are compelled to attend as witnesses in a court of law will do well to bear in mind: "However anxious an incompetent witness may be to appear learned, and however hard he may labor to show it, he will ever find it a difficult business to make the court and counsel believe that he is really so. To appear really learned he must be able to make the subject on which he gives an opinion *clear*, and to give *satisfactory reasons* for this opinion. He must be not only a thinker, but must satisfy others that he is master of his subject. Take almost any one of the important scientific questions upon which a professional witness is called to pass an opinion, and unless he has *looked at the subject before with a purpose to understand it*—comprehending its extent, weight, and relations—he will find it to have suddenly assumed an importance he had not suspected, just at the time when the discovery will add to his confusion. It is better to make this discovery in the quiet stillness and security of solitude, than under the eye of a judge and the severe scrutiny of counsel. A man, whether learned or not—whether in court or out of court—will talk clearly upon a subject he well understands, whether it is scientific or otherwise, but *unless it is clear in his own mind his account of it will be confused and unsatisfactory.*" (Op. cit., p. 303.) This is undoubtedly the test to which every man should rigorously submit himself before entering the witness-box. The case should be viewed in all possible aspects, and if an opinion had been formed, it should be dealt with and criticized as if it were that of an adversary. As in controversy, a disputant should place himself as much as possible in the position of his antagonist, and see the question from his point of view. In this kind of self-examination it may be well to remember two points —1st, that there is no opinion so certain as that the human mind, if left to itself, will not infallibly raise a difference of opinion upon it; and 2dly, that a man is never so near an error as when he claims a complete immunity from error.

Rules for the Delivery of Evidence.—There are a few rules bearing upon medical evidence which, if observed, may save the witness

from interruption or reproof and place him in a favorable position with the court :—

1. The questions put on either side should receive *direct* answers, and the manner of the witness should not be perceptibly different whether he is replying to a question put by the counsel for the prosecution or for the defence.

For reasons elsewhere assigned (p. 44), most of the questions put by counsel in cross-examination will admit of an answer "yes" or "no." If, from the ingenious or casuistical mode in which the question is framed, the witness should feel that the simple affirmative or negative might mislead the court, then, after giving the answer, he can appeal to the judge to allow him to qualify it, or add to it any matter within *his own knowledge* and which is at the same time relevant to the case. The witness must remember that he takes an oath to state the truth, *the whole truth*, and nothing but the truth. On the other hand, while the counsel for the defence is bound not to introduce falsehood, his object is *not* the discovery or development of truth. Unless the witness is on his guard, he may find, when the learned counsel who has cross-examined him addresses the jury, that his affirmatives and negatives may be worked into a shape representing the reverse of what he intended.

Some counsel adopt the ingenious plan of compressing two or three questions into one. A witness unthinkingly answers the last, or that which most fixes his attention. The same answer may not be strictly applicable to all, but the witness may find, when too late, that it is made so in the defence. In this case he should ask for a severance of the questions and give separate replies.

Direct answers are necessary, because it is only by them that the case can be brought clearly before the court and jury in all its details. Medical witnesses sometimes forget this, and fall into answers to questions floating in their own minds, or which they think are likely to be put to them. They are also sometimes disposed to anticipate many questions by one general answer. This simply creates confusion, and the witness will be told by counsel to keep to the question, and that he is coming to the other matters presently.

Care should be taken by the medical witness not to argue with the learned counsel. Argument is not evidence, and the entering into it disturbs the order of the proceedings. Arguments between counsel and witnesses, and even between medical witnesses themselves, are freely allowed in the French Courts, but in England such a practice is not recognized. The mode in which questions are put by counsel in cross-examination sometimes tends to the introduction of argument, but the witness should avoid the temptation to enter into it. What he says under such circumstances is not evidence, except in the form of answers to questions, and he is there only for the purpose of stating what is relevant to the case.

There is a difference between evidence and testimony. A medical witness sometimes gives much in the form of testimony which amounts to very little as evidence. When he does not attend to the questions, he testifies to a variety of subjects which have no bearing on the

case, and do not constitute evidence. The decision on what is and what is not evidence lies with the judge.

2. The replies should be concise, distinct and audible, and, except where explanation may be necessary, they should be confined strictly to the terms of the questions. The learned judge who tries the case, generally takes full notes of the medical evidence—hence the necessity for a slow and distinct delivery of the evidence. Some witnesses have a singular habit of not answering the question which is asked but one which is not asked. Others give an answer in such a voluble form, in the shape of a small speech or lecture, that there is great difficulty in reducing it to its proper proportions. A witness who is so profuse of information generally supplies abundant matter for a long and troublesome cross-examination.

It has been a question whether a witness should volunteer evidence, assuming that the examination-in-chief and cross-examination have failed to bring out all that he knows of the case. If that which he has to state is some matter of fact within his own knowledge, or an opinion based on facts within his knowledge, he will be allowed, on application to the judge, to make the statement in spite of the efforts of counsel on either side to shut it out.

It is scarcely necessary to observe, that the language in which the answers are returned should neither be flippant nor metaphorical. Counsel who are unacquainted with medical terms frequently misapply them, or use them in a wrong sense. There are few barristers who are aware that the term "symptom" is confined to the living body, and "appearance" to the dead; and the witness may thus find himself questioned on the "appearances" when he first saw the patient, or the "symptoms" which he observed on the post-mortem examination of the stomach and bowels. On a trial for murder, in which one of the questions at issue was whether dysentery or poison was the cause of death, the learned counsel puzzled one of the medical witnesses by asking him whether during his attendance he found any traces of "*dysuria*" in the feces! There is no doubt he intended a state of the feces, like that met with in dysentery, but the professional term employed by him signified a "difficulty in passing urine." A judicious witness will avoid anything like a triumph over his examiner under such circumstances, and simply put him right.

3. Answers to questions should be neither ambiguous, undecided, nor evasive. An ambiguous answer necessarily leaves the witness's meaning doubtful, and calls for an explanation. An undecided answer—indicated by the words "I believe," or "I think," or "It might be,"—is not sufficient for evidence. Did the wound cause death? Was death caused by loss of blood or poison? If, by a proper consideration of all the medical facts, the witness has come to a conclusion on the subject, his answer should be expressed in plain and decided language, either in the affirmative or negative. A man who has formed no conclusion is not in a position to give evidence. No opinion should be given for which the witness is not prepared to assign reasons, and except by permission of the court, no medical opinion should be expressed on facts or circumstances ob-

served by others. A hesitating witness will be met with the question, Have you any doubt about it? or, Was it so or not?—to which a reply in the affirmative or negative must be given. If the witness fairly entertains doubts about the matter at issue, it is his duty to express them, and not allow them to be extorted from him piecemeal by a series of questions.

Chemical witnesses have occasionally certified to the discovery of "imperceptible," "unmistakable," or "undoubted" traces of poison in the liver, &c. Such terms naturally convey to the shrewd mind of an examiner that the witness has some lurking doubt or suspicion of mistake in his mind, for that of which we are sure requires no such terms to express our meaning. If poison has been discovered, the statement of the fact is sufficient.

4. The replies should be made in simple language, free from technicality. Some remarks have been elsewhere made in reference to the use of technical terms in drawing up medico-legal reports (p. 30). If medical men could be made aware of the ridicule which they thus bring on their evidence otherwise good, they would at once strive to dispense with such language. A witness is perhaps unconsciously led to speak as if he were addressing a medical assembly, instead of plain men like the members of a common jury who are wholly ignorant of the meaning of medical terms, and barristers who are but imperfectly acquainted with them. There are few Assizes which do not afford many illustrations of the injury done to scientific evidence and the clear understanding of a case, by the technical language in which it is given. A court may be told that the "*integuments* were *reflected* from the thorax, and the *costal* cartilages laid bare, when a wound was found which had penetrated through the anterior *mediastinum*," and had involved the arch of the aorta, &c. A simple cut in the skin is described as "an incision in the integuments." In a case of alleged child-murder, a medical witness being asked for a plain opinion of the cause of death, said that it was owing "to atelectasis and a general engorgement of the pulmonary tissue." On a trial for an assault which took place at the Assizes, some years since, a surgeon, in giving his evidence, informed the court that on examining the prosecutor, he found him suffering from a severe contusion of the integuments under the left orbit, with great extravasation of blood and ecchymosis in the surrounding cellular tissue, which was in a tumefied state. There was also considerable abrasion of the cuticle." "*Judge:* You mean, I suppose, that the man had a bad black eye. *Witness:* Yes. *Judge:* Then why not say so at once?" It would be easy to multiply examples of this kind.

This is not science, but pedantry, and if such language is employed by a witness with a view of impressing the court with some idea of his learning, it wholly fails of its effect. Barristers and reporters put down their pens in despair, and the time of the court is wasted until the witness has condescended to translate his ideas into ordinary language.

CHAPTER III.

CAUSES OF DEATH.—SUDDEN DEATH.—SYNCOPE, ASPHYXIA, COMA.—SIGNS OR INDICATIONS OF DEATH.—CESSATION OF CIRCULATION AND RESPIRATION.—COOLING OF THE BODY.—CADAVERIC RIGIDITY.—PUTREFACTION.

MEDICAL jurisprudence takes cognizance of all violent causes of death, and is only indirectly involved in those cases of natural death which simulate the effects of violence. Thus all causes which operate to produce death suddenly, as by *syncope*, *asphyxia*, or *coma*, especially demand the attention of a medical jurist. These may be either natural or violent; and the distinction between them is of importance, since the guilt or innocence of a person charged with crime may depend on a correct determination of the cause.

The continuance of life depends upon the proper and regulated action of the heart, the lungs, and the brain; and the interdependence of these organs is such that the arrest of the functions of one of them is speedily followed by the arrest of the functions of the others. Hence these three organs have been called the tripod of life. When the suspension of the motions of the heart is the primary cause of death, the person is said to die by syncope. The term asphyxia is applied to death which begins by the lungs; and coma to that which arises from a primary disturbance of the functions of the brain.

Syncope (συγκόπτω).—In order that the action of the heart should be maintained, it is necessary first, that the blood supplied to it should be in sufficient *quantity*, and secondly, that this blood should be of proper *quality*. In death from hemorrhage we have an instance of deficiency, and in death from certain poisons as well as diseases, an illustration of defect of blood. In ordinary syncope (fainting or swooning) there is simply a deficiency in the quantity of blood which passes through the heart, although there is no actual loss of this fluid from the circulation. Certain diseases which affect the muscular structure of the heart, as well as its membranous valves and bloodvessels, may also lead to a sudden arrest of its functions. These morbid conditions produce a mechanical impediment to the motions of the organ by which the blood is propelled, and death by syncope is the necessary result.

When death takes place by the heart, the right and left cavities of this organ are found to contain blood in the normal proportion in which that fluid is ordinarily circulated. This retention of blood in these cavities arises from the sudden stoppage of the heart's contractions. Blood is found in the large veins (venæ cavæ), as well as

in the arterial trunks. There is no congestion or accumulation of blood in the lungs or the brain.

Asphyxia (ἀ priv. and σφύξις pulse, signifying pulselessness. This state is induced by any cause which arrests the function of respiration. The term apnœa (from ἀ priv. and πνέω I respire) is more appropriate; for the state of syncope might equally be called asphyxia. The various forms of death by suffocation, as in the obstruction of the air-passages from mechanical causes, in drowning, hanging, and strangulation, furnish illustrations of death commencing by the lungs, or asphyxia. The effect of cutting off air from the lungs is that the blood is not aërated, and it is therefore circulated in a state unfitted to support the nutrition of the heart and brain, without which life cannot continue beyond a few minutes. It is necessarily distributed with the impurities derived from the waste of tissue, and thus acts as a poison to all the organs. It is incapable of sustaining nerve-force or muscular irritability. It stagnates in the capillary vessels of the lungs, produces a languid action of the heart by its circulation through the muscular structure of this organ, and it causes insensibility by its distribution through the bloodvessels of the brain. The lungs are essential to the circulation by purifying the blood; the brain, from the necessity of supplying the proper stimulus—nerve-force. Death from asphyxia may be therefore regarded as death from *defect* of blood. The observations of the late Sir B. Brodie ("Lectures on Pathology," 66) and others have clearly proved that in spite of the impurity of the blood, the heart will continue to act and the circulation to be maintained for two or three minutes or longer after breathing has entirely ceased. This may be proved by hanging or strangling an animal, and observing the condition of the heart during the stage of insensibility. As the action of this organ continues after the animal has ceased to breathe, life is not actually extinct; and under favorable circumstances, it may be restored, if no injury be done to the air-cells of the lungs, so long as this action continues. Supposing that the suspension of respiration is complete, the action of the heart gradually slackens and finally stops. It is at this period of the complete arrest of the motions of the heart that asphyxia passes into death. Apnœa is determined by the time at which respiration is completely arrested. The circulation of the unaërated blood through the brain appears to annihilate sensibility, so that no consciousness or feeling exists; the person is, to all appearance, dead. There are many diseases which operate fatally by arresting the functions of the lungs, and these may be regarded as furnishing the natural causes of asphyxia. The violent causes, including not only the ordinary modes of suffocation, but the effects of certain poisons, are not difficult to appreciate, provided a true history of the case can be obtained.

In death by the lungs, as the circulation of the blood is primarily arrested in these organs, the pulmonary artery, the right cavities of the heart, and the venæ cavæ are found gorged with blood. The pulmonary veins, the left cavities of the heart, and the aorta, are either empty or contain but little blood. In certain cases of asphyxia,

the right cavities of the heart, as well as the left, have been found empty. When the access of air to the lungs is suddenly and completely cut off, the circulation of the blood is very speedily arrested; but supposing the occlusion of the air-passages to be partial or gradual, the circulation of the blood may continue for a time, and thus cause congestion of certain organs. Hence the appearances in asphyxia differ greatly. A mixed condition under the name of syncopal asphyxia has been described by some pathologists. In this, the cavities of the heart are found empty.

Coma.—Besides a due supply of properly aërated blood, the brain requires for the exercise of its functions a proper quantity of blood, so that either by the sudden withdrawal of this fluid, or by a distribution of impure blood, these are arrested. A person thus affected falls into a state of complete insensibility (coma), so that it is impossible to rouse him. The functions of the heart and lungs are not suddenly arrested under these circumstances. They appear to be less dependent on the brain than the brain is upon them; but this is rather a question of degree. A due supply of nerve-force is required for the action of the muscles, whether of the heart or of the chest; and when this is withdrawn, the heart ceases to pulsate, and the respiratory muscles cease to act: circulation and respiration are thus arrested by the absence of innervation. This is sometimes described as death by paralysis of the heart and lungs. The blood is neither aërated nor circulated. Sudden death from apoplexy is an illustration of death by the brain. Coma may also be a result of the introduction of certain poisons into the blood, and of fractures of the skull leading to compression of the brain or destruction of its substance. In death by the brain, the appearances observed consist chiefly in a congested state of the cerebral membranes and substance of the brain. As, before death, the breathing is affected, the lungs are congested and blood accumulates in the cavities of the heart, more on the right than on the left side.

The appearances described as characteristic of the different modes of death by the heart, lungs, and brain, are liable to variation by reason of the intimate relations of these organs. Thus, there may be a mixed condition of syncope and asphyxia, or of asphyxia with cerebral congestion.

With regard to the interruption of the functions of the brain as a result of pressure by the effusion of blood or serum, it is to be observed that a very small quantity effused at the base or in the substance of the medulla oblongata, is sufficient to cause death; while generally speaking a larger quantity is required to be effused in the membranes, ventricles, or substance of the brain, in order to produce a fatal result. In cases of chronic hydrocephalus, in which the brain has resisted the pressure of a large accumulation of serum for many years, a slight and sudden increase in the quantity at any period of life may lead to coma and death by apoplexy. This condition may be mistaken for narcotic poisoning.

All causes of death, whether from disease or violence, are referable to an effect produced primarily on the heart, the lungs, or the brain; but, as it has been elsewhere stated, death does not take place until

the action of the heart has entirely ceased. The arrest of the circulation produces an immediate impression upon the functions of the brain and lungs; while the lungs and brain are affected and can only affect each other indirectly through the medium of the circulation; hence, systemic death, or the death of the body, is resolvable into death by syncope or a failure of the action of the heart, and this depends in all cases either upon defect or deficiency of blood.

The natural causes of *sudden death* may be generally traced to some injury or impediment to the action of the heart, lungs, or brain. It would be foreign to the objects of this manual to give a description of them. The violent causes are those which demand the especial attention of a medical jurist; they will be considered hereafter. In its relations to medicine and medical jurisprudence the subject of sudden death has been most fully treated by Herrich and Kopp ("Der plötzliche Tod aus ineren Ursachen," Regensburg, 1848); as well as M. Devergie ("Ann. d'Hyg." 1838, 2, 145). To these works I must refer the reader for further information on the causes, as well as on the appearances met with in the bodies of persons dying suddenly from natural causes.

The *violent* causes of death, whether sudden or protracted, which chiefly require the skill of a medical jurist for their elucidation, are poisoning, wounds, and personal injuries, such as burns and scalds, as well as those forms of death which commence by the lungs, including drowning, hanging, strangulation, and suffocation. In nearly all cases, the body of the deceased is produced, and a medical opinion can be based upon a careful examination.

Signs or Indications of Death.—The verification of death is occasionally a duty thrown on the medical jurist. Certain signs or indications have been pointed out as proving that death is real, and not apparent. These are taken in the order of their importance.

1. *The cessation of circulation and respiration.*—The heart is considered to be the organ in which life begins and ends—the *primum vivens* and *ultimum moriens*—the first to live and the last to die. The proof of death is the proof of cessation of the heart's action for a certain period. The more visible indication of death is the cessation of breathing, and in the opinion of the late Sir B. Brodie, the entire cessation of breathing alone may be regarded as a decisive test of the extinction of life. The movements of respiration cannot be overlooked by any one who does not choose to overlook them, and the heart never continues to act for more than four or five minutes after respiration has ceased. The proofs of the continued action of this organ are, however, less obvious to the unskilled observer, than the movements of the chest; hence the visible cessation of these movements, *i. e.*, of breathing, for a period of five minutes furnishes a certain proof that the person is really dead. But the skilled observer would apply the test of auscultation, and before giving an opinion would satisfy himself of the permanent cessation of the heart's action. It is impossible to admit that the heart can remain for even half an hour in a state of inaction in a human being, and then spontaneously recover its activity.

2. *Cooling of the body.*—The average temperature of the interior of the *living* body in health, varies from 98° to 100°, and this it retains so long as life continues, whether the temperature of the air is below zero or above 140°. It is liable to be increased in some diseases, and to be diminished in others. In a case of typhoid fever, the blood was found to have a temperature of 113°. When life is extinguished, the body gradually loses the heat which it possessed at the moment of death, just like so much inert organic matter artificially raised to the same temperature, and it cools down to the temperature of the air to which it is exposed. The time usually assigned for the cooling of the dead human body is from *fifteen* to *twenty hours*, but it varies according to the condition of the body at the time of death, the mode of death, and the circumstances under which it has been placed. Thus, if exposed naked to a cold atmosphere, the cooling is very rapid. If the body is well covered, the cooling takes place slowly. When death has taken place suddenly, from accident, apoplexy, or acute disease, a body has been observed to retain its heat for a long period.

3. *Cadaveric rigidity. Rigor mortis.*—In from five to six hours after death, and generally while the body is in the act of cooling, the muscles of the limbs are observed to become hard and contracted in the attitude in which the body is placed; the joints are stiff, and the trunk firm and unyielding. This peculiar condition is known under the name of cadaveric rigidity. The first effect of death from any cause is in most cases a general relaxation of the whole of the muscular system. The lower jaw drops, the eyelids lose their tension, the limbs are soft and flabby, and the joints are quite flexible. The muscular tissue may be considered as passing through three stages in a dead body. 1. It is, at first, flaccid but contractile, although it may be remarked that muscles contracted by living force in the act of dying, do not necessarily become relaxed in death; 2. It becomes rigid and incapable of contraction; and 3. It is once more relaxed, and does not regain its power of contractility. The body now passes into the first stage of putrefaction. The first stage defines the duration of muscular irritability; the second stage, that of cadaveric rigidity; and the third, that of the commencement of chemical changes or putrefaction.

At a certain period after death, the heart is found rigid and firmly contracted. If examined at this time, it may appear to be in a state of spasm, and to have its walls thickened, while the cavity of the left ventricle may be described as being much smaller than in the normal state. Mr. Paget has pointed out that this natural condition of the heart after death has led to pathological mistakes, the walls being described as thickened and the cavities diminished in size, and the heart itself as being in a state of concentric hypertrophy from disease. On the other hand, the perfect relaxation of the heart which follows at a later period after death, has been mistaken for and described as a morbid flabbiness and flaccidity. Spasm and paralysis cannot be inferred to have existed when we discover these conditions of the heart in the recently dead body.

Under the action of poisons like strychnia, and those alkaloids

which cause death by convulsions, the more violent and frequent the convulsions, the sooner cadaveric rigidity sets in. Whatever exhausts muscular irritability before death appears to accelerate cadaveric rigidity in the muscles after death.

In those instances in which muscular irritability at the time of death is slight, either in consequence of a bad state of nutrition or of exhaustion from over-exertion, or from convulsions caused by disease or poison, it is observed that cadaveric rigidity sets in and ceases soon, and putrefaction appears and progresses quickly. (Brown Séquard, "Proc. R. S.," May, 1861.) For a similar reason it takes place at an earlier period in the very young and the old than in an adult in the prime of life.

If we allow a proper interval to elapse after the supposed death of a person, there can be no difficulty in solving the question, whether the body is really dead, even before any of those changes which arise from putrefaction have manifested themselves. The circumstances on which we may rely as furnishing conclusive evidence of death, are the following: 1. The absence of circulation and respiration for at least *an hour*, the stethoscope being employed if necessary; 2. The gradual cooling of the body to the temperature of the air, the trunk remaining warm while the members are cold; and 3. As the body cools, a gradual supervention of a rigid state of the muscles, successively attacking the limbs and trunk, and ultimately spreading through the whole muscular system. When these conditions are observed, the proofs of death are conclusive; it is unnecessary to wait for any sign of putrefaction. These changes are as certainly the forerunners of putrefaction as the process of putrefaction is itself the forerunner of the entire destruction of the body. I believe it may be safely said that there has not been a single instance of resuscitation after rigidity had once commenced in a body. During the raging of epidemics, if additional evidence be required for early burial, it might be obtained by exposing a superficial muscle to the galvanic stimulus. If the fibres do not contract, death is certain. If they do, this is no proof that the person can be restored to active life; but further time may be allowed before the body is committed to the grave.

Putrefaction.—By putrefaction we are to understand those chemical changes which spontaneously take place in dead animal matter, during which offensive gases are evolved. The ultimate effect of these changes is, after a longer or shorter period, to reduce the organic to the condition of inorganic compounds, consisting chiefly of water, ammonia, and carbonic acid. It is in the stage of transition that noxious effluvia are evolved from which the process derives its name. these consist of compounds of nitrogen, sulphur, phosphorus, and carbon with hydrogen.

This process does not begin to manifest itself in the dead body until after the cessation of cadaveric rigidity, and generally about the third day. It is then observed, if the body has been exposed to the atmosphere in an apartment of mean temperature (60°), that the limbs and trunk become supple and pliant, and yield a faint odor. The skin covering the abdomen becomes of a pale greenish color,

which gradually deepens. A similar discoloration slowly makes its appearance in the chest, between the ribs, in the face, the neck, the legs, and lastly, in the arms. The color appears to depend on the decomposition and infiltration of the animal fluids, especially the blood, into the skin. In the neck and limbs it is observed to be more marked in the situation of the large venous trunks; and sometimes, indeed, the course of the superficial veins is accurately traced out by greenish-blue or dark lines, which have been mistaken for marks of violence. Gaseous products are formed, not only in the hollow organs of the abdomen, but beneath the skin generally, so that on making an incision, the edges of the skin are rapidly forced apart or everted. The reaction of this confined gas accounts for the occasional escape of alimentary and fecal matter from the outlets: as also for the escape of blood some days after death from wounds involving any of the large veins.

Putrefaction takes place with variable rapidity. It commonly shows itself about the second or third day in warm weather, and about the fifth or sixth day in cold weather. In some instances, however, the body has been found in an advanced state of putrefaction in the short period of *sixteen hours* after death, and in others the process has been greatly protracted. The time of its appearance is dependent on the duration of cadaveric rigidity, and the condition of the body at the time of death.

POISONING.

CHAPTER IV.

DEFINITION OF THE TERM POISON.—DEADLY POISONS.—MECHANICAL IRRITANTS.—INFLUENCE OF HABIT AND IDIOSYNCRASY.—CLASSIFICATION.—SPECIAL CHARACTERS OF IRRITANT, CORROSIVE, AND NEUROTIC POISONS.

Definition.—A POISON is commonly defined to be a substance, which, when administered or taken *in small quantity*, is capable of acting deleteriously on the body; in popular language, this term is applied only to those substances which destroy life in small doses. This popular view of the nature of a poison is too restricted for the purposes of medical jurisprudence. It would obviously exclude numerous compounds, the poisonous properties of which cannot be disputed—as, for example, the salts of copper, tin, zinc, lead and antimony; these, generally speaking, act as poisons only when administered in *large* doses. Some substances, such as nitre, have not been observed to have a noxious action except when taken in large quantity, while arsenic acts as a poison in a small dose; but in a medico-legal view, whether a man dies from the effects of an ounce of nitre, or two grains of arsenic, the responsibility of the person who criminally administers the substance, is the same. Each may be regarded as a poison, differing from the other only in its degree of activity, and in its mode of operation. The result is the same; death is caused by the substance taken, and the *quantity* required to destroy life, even if it could be always accurately determined, cannot enable us to distinguish a poisonous from a non-poisonous substance. If, then, a medical witness be asked "what is a poison?" he must beware of adopting this popular definition, or of confining the term poison to a substance which is capable of operating as such in a small dose taken at once.

In legal medicine, it is difficult to give such a definition of a poison as shall be entirely free from objection. Perhaps the most comprehensive which can be suggested is this: "A poison is a substance which, when absorbed into the blood, is capable of seriously affecting health or of destroying life." There are various channels by which poisons enter the blood; some are in the form of gases or vapors; these operate rapidly through the lungs; others are liquid or solid, and these may reach the blood either through the skin or through a

wound; but more commonly through the lining membrane of the stomach or bowels, as when they are taken or administered in the ordinary manner. The latter chiefly give rise to medico-legal investigations. Some substances act as poisons, by any one of these channels; thus arsenic is a poison whether it enters the blood through the lungs, the skin, or the stomach and bowels; but such poisons as those of the viper, of rabies, and of glanders, appear to affect the body only through a wound in the skin. When introduced into the stomach, these animal poisons have been found to be inert. In adopting the above definition of a poison in a medical sense, it is proper to remark that there are some substances which are regarded as poisons, although absorption into the blood does not appear to be necessary to their action. The mineral acids and alkalies belong to this class of bodies. They are corrosive poisons; they operate injuriously by causing the destruction of living parts; and whether applied to the skin, the stomach, or (in the form of vapor) to the air-cells of the lungs, they destroy life by the local changes to which they give rise, and the inflammation which is a consequence of their action.

It is not easy to define the boundary between a medicine and a poison. It is usually considered that a medicine in a large dose is a poison, and a poison in a small dose is a medicine; but a medicine such as tartarized antimony may be easily converted into a poison, by giving it in small doses at short intervals, either under states of the body not adapted to receive it, or in cases in which it exerts an injuriously depressing effect. Some deaths have been lately occasioned by this wilful misuse of antimony in doses which might be described as *medicinal*, although in the cases referred to, no other intention could have existed, in the secret administration of this substance, than that of destroying life. A person may die either from a large dose of a substance given at once, or from a number of small doses given at such intervals that the system cannot recover from the effects of one before another is administered. This remark applies to a great number of medicines which are not commonly included in a list of poisons.

In reference to the *medical* definition of a poison, it is necessary to observe that the law does not regard the manner in which the substance administered acts. If it be capable of destroying life or of injuring health, it is of little importance, so far as the responsibility of a prisoner is concerned, whether its action on the body is of a mechanical or chemical nature, and whether it operates fatally by absorption into the blood or not. Thus a substance which simply acts mechanically on the stomach or bowels may, if wilfully administered with intent to injure, involve a person in a criminal charge, as much as if he had administered arsenic or any of the ordinary poisons. It is, then, necessary that we should consider what the law strictly means by the act of poisoning. If the substance criminally administered, destroys life, whatever may be its nature or mode of operation, the accused is tried on a charge of murder or manslaughter, and the duty of a medical witness consists in showing that the sub-

stance taken was the certain cause of death. If, however, death be not the consequence, then the accused may be tried for the attempt to murder by poison (24 & 25 Vict. c. 100, s. 11, Aug. 1861). The words of this statute are general, and embrace all kinds of substances whether they are popularly or professionally regarded as poisons or not. Thus it is laid down that—

"Whosoever shall administer, or cause to be administered to or taken by any person, any poison, or *other destructive thing*, with intent to commit murder, shall be guilty of felony."

Whether the administering be followed by any bodily injury or not, the act is still a felony, provided the *intent* has been to commit murder. The attempt to administer or the attempt to cause to be administered to, or to be taken by any person, any poison or *other destructive thing*, with the like intent, although no bodily injury be effected, is also a felony (s. 14). If any doubt formerly existed whether the *external* application of poisons, *e. g.*, by wounds or ulcerated surfaces, would be included in the words "administering or taking," they are now entirely removed by the Criminal Law Consolidation Act (Aug. 1861). The 22d section specially applies to such an offence, and the 15th section provides that "Whosoever shall, by any means other than those specified in any of the preceding sections of this act, attempt to commit murder, shall be guilty of felony." Mr. Greaves justly remarks, with regard to this important addition to the statute law, that "the malicious may now rest satisfied that every attempt to murder which their perverted ingenuity may devise, or their fiendish malignity suggest, will fall within some clause of this act, and may be visited with penal servitude for life." ("Notes on Crim. Law Consolidation," p. 49.) Under Sec. 22 of this statute, in reference to attempted poisoning, some offences are comprised, which formerly escaped punishment: "Whosoever shall unlawfully apply or administer to, or cause to be taken by, or attempt to apply or administer to, or attempt to cause to be administered to or taken by any person, any chloroform, laudanum, or other stupefying or overpowering drug, matter, or thing, with intent, in any of such cases, thereby to enable himself or any other person to commit, or with intent, &c., to assist any other person in committing any indictable offence, shall be guilty of felony." A case under this section of the new statute was referred to me in September, 1863. A medical gentleman was charged with "attempting to cause to be administered" to an infant a poisonous dose of laudanum. It was stated by a woman who nursed the child that the accused delivered to her two bottles containing a brown liquid, labelled "one teaspoonful every three hours," and directed her to give it to the child. None was given. Some months after the death of the child from natural causes, this charge was raised, and the bottles, still full of liquid, were produced as evidence against the accused. On analysis I found that the prescribed dose contained about five minims of laudanum, or nearly one-half grain of opium—a dose likely to prove fatal to an infant only a month old. Assuming the statement of the nurse who made the charge to be true, the only inference to be drawn from the prescription of such a dose

for an infant by a medical man, would be that he intended to destroy the life of the child. The charge fell to the ground, as clear proof was given that the woman who made it was not to be believed on her oath, and that it had originated in a desire to extort money.

[The Revised Criminal Code of Pennsylvania, passed March 31, 1860, contains various provisions upon the subject of the use of poisons, which are substantially the same as the provisions of the English statutes mentioned in the text. (See §§ 81–83). Section 70 forbids the sale of morphia, strychnia, arsenic, prussic acid, or corrosive sublimate, except upon the prescription of a physician or on the personal application of some respectable inhabitant of full age. In all cases, the word "poison" to be legibly marked on the label of the vessel in which it is contained. A memorandum of all sales other than under prescription of a physician to be kept in a register, with name and residence of purchaser, quantity sold, and date. Penalty for breach, a fine not exceeding $50.—P.]

Poison is not always administered with intent to murder. On many occasions it has been mixed with food, and thus administered with a view to injure or annoy a person. Cantharides have been thus frequently given, and in one instance (Nov. 1859) eight members of a family suffered from severe symptoms of poisoning by reason of the wanton administration of this drug. In April, 1860, several members of a family suffered from severe sickness, as a result of tobacco having been put into water contained in a teakettle; and tartar emetic has been in some cases dissolved in beer or other liquids as a mere frolic without any proved or probable intention on the part of the offender to destroy life. The case of *McMullen* (Liverpool Autumn Assizes, 1856) revealed an extensive system of poisoning in the northern counties, in which tartar emetic was the substance employed. This drug, mixed with cream of tartar, was openly sold by druggists under the name of "quietness powders," and the evidence established that women gave these powders to their husbands with a view to cure them of habits of drunkenness. Hitherto, when the intent of murder was not proved, the offender has escaped, although great bodily injury may have been done by his wanton or malicious act. Sections 23, 24, and 25 of the Consolidation Act, c. 100, provides for this omission:—

"23. Whosoever shall unlawfully and maliciously administer to, or cause to be administered to or taken by any other person, any poison or *other destructive* or *noxious thing*, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, shall be guilty of felony."

"24. Whosoever shall unlawfully and maliciously administer to, or cause to be administered to or taken by any other person, any poison or other destructive or noxious thing, with intent to injure, aggrieve, or annoy such person, shall be guilty of a misdemeanor."

"25. If, upon the trial of any person charged with the felony above mentioned, the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of the misdemeanor above mentioned, then and in every such case the jury may acquit

the accused of such felony, and find him guilty of such misdemeanor."

It will be perceived that the words of the statute leave the question "What is a poison?" to depend upon the medical evidence adduced: and in order to include all substances of an injurious nature, although they may not be strictly speaking poisons, the words "*destructive* or *noxious thing*" are employed. Hence, on these occasions, a medical witness must be prepared to prove that the substance was either a poison or a destructive or noxious thing. In a trial which took place at the Essex Lent Assizes, 1850 (*Reg.* v. *Hayward*), a woman was charged with administering *white precipitate* to her husband with intent to kill. She was acquitted on the ground that there was no evidence to show that white precipitate was either a poison or a destructive thing. It is, however, placed beyond doubt that this substance is not only capable of producing all the effects of an irritant poison, but of destroying human life; hence, this acquittal was based on a pure mistake. *White hellebore*, *Lobelia inflata*, and *Oil of turpentine* have been erroneously pronounced not to be poisons under similar circumstances; in fact, when this question is raised, unless the medical evidence received by a court be very closely investigated, great mistakes may arise, owing, perhaps to want of experience or want of reflection on the part of those to whom the question is put.

Mechanical Irritants.—The substance administered may not be a poison in the medical signification of the term, and it may not be popularly considered as such: yet, when taken, it may be noxious to health or destructive to life. We have examples of substances of this description in iron-filings, powdered glass, sponge, pins and needles, and such like bodies, which have been administered with the wilful design of injuring, and have on various occasions given rise to criminal charges. In cases of this kind, the legal guilt of a prisoner may often depend on the meaning assigned by a medical witness to the words *destructive thing*. Thus, to take an example, liquid mercury might be poured down the throat of an infant, with the deliberate intention to destroy it. A question of a purely medical nature will then arise whether mercury be a "destructive thing" or not; and the conviction of a prisoner will probably depend on the answer. Should a difference of opinion exist, an occurrence by no means unusual in medical evidence, the prisoner will, according to the humane principle of our law, receive the benefit of the doubt.

Influence of Habit on Poison.—Habit, it is well known, diminishes the effects of certain poisons: thus it is that opium, when frequently taken by a person, loses its effects for a time, and requires to be administered in a much larger dose. Indeed, confirmed opium-eaters have been enabled to take at once, a quantity of the drug which would have infallibly killed them, had they commenced with it in the first instance. Even infants and children, who are well known to be especially susceptible of the effects of opium, and are liable to be poisoned by small doses, may, by the influence of habit, be brought

to take the drug in very large quantities. This is well illustrated by a statement made by Mr. Grainger, in the "Report of the Children's Employment Commission." It appears that the system of drugging children with opium in the factory districts, commences as soon after birth as possible; and the dose is gradually increased until the child takes from fifteen to twenty drops of laudanum at once! This has the effect of throwing it into a lethargic stupor. Healthy children of the same age would be killed by a dose of five drops. The same influence of habit is manifested more or less in the use of tobacco, alcohol, ether, chloroform, morphia, strychnia, and other alkaloids. Dr. Christison has remarked that this influence is chiefly confined to poisons derived from the organic kingdom: it is so limited with regard to mineral substances that it can scarcely be said to exist. It is stated on respectable authority that certain peasants in Styria are addicted to the practice of arsenic-eating, and that they carry it on for many years without suffering from the usual effects of this poison. Dr. Roscoe has published a case in which, according to information supplied to him, a Styrian peasant took in one day four grains and a half, and on the day following five grains and a half of arsenic, crushing the mineral between his teeth and swallowing it. The day after he had swallowed the second dose, the man left the place in his usual health and there is no further record of him. Dr. C. Maclagan states that he saw a Styrian peasant, æt. 26, swallow between four and five grains of white arsenic in powder. In two hours some urine which he passed contained arsenic. This man suffered no ill effects; he stated that he had taken arsenic for a year and a half without any injury to his health. He took at first rather less than a grain every fortnight. In another case a man, æt. 46, swallowed six grains. In three quarters of an hour it was found that arsenic was eliminated with the urine. ("Ed. Med. Journ." Sept. 1864, p. 200.) Dr. Knapp informed Dr. Maclagan, that a man once took in his presence seven and a half grains of arsenic, and no injurious effects were produced ("Ed. Med. Journ." Jan. 1865, p. 669. Such cases as these admit of no explanation on English experience. *Habit* appears to have so little influence on arsenic, under the most careful medicinal use of it in this country, that I believe no medical practitioner has ever succeeded in causing a patient to take *two grains* at a dose, the smallest quantity yet known to have destroyed life. Mr. Hunt, who has had a large experience in the use of this mineral, fixes the maximum dose to be given with safety, at one grain.

The following case, reported in the same journal (August, 1864, p. 116), by Dr. Parkes, of Halifax, shows the danger incurred by this practice. A man who had taken arsenic for a period of three or four years died under the usual symptoms of chronic poisoning. As far as it could be ascertained, the daily dose taken by deceased for the last five months of his life, was from two to three grains. From the beginning of the practice he had suffered from symptoms of poisoning with arsenic, which gradually assumed the form of arsenical cachexia; but he referred the symptoms to other causes, and concealed the practice from his friends. His system never became habit-

uated to the poison. This is a result which may be generally expected. If the exceptional cases observed in Styria are supposed to prove that arsenic may be taken in large doses with impunity they would lead to error. Such cases have no practical bearing in legal medicine. If the practice of arsenic-eating produces no symptoms, then no question of poisoning can arise. If, as in the above case, it does produce symptoms, then it falls within the range of ordinary experience.

The only form in which I have known the question of habit to be seriously raised in medical jurisprudence is this: whether, while the more prominent effects of a poison are thereby diminished, the insidious or latent effects on the constitution are at the same time counteracted. The answer is of some importance in relation to the subject of life insurance:—for the concealment of the practice of opium-eating by a person whose life was insured, has already given rise to an action, in which medical evidence on this subject was rendered necessary. As a general principle, we must admit that habit cannot altogether counteract the insidious effects of poisons; and that the practice of taking them is liable to give rise to disease or to impair the constitution.

Influence of Idiosyncrasy.—Idiosyncrasy differs from habit:—it does not, like habit, diminish the effect of a poison: for it is not commonly found that any particular state of body is a safeguard against the effects of these powerful agents. Some constitutions are observed to be much more affected than others by certain poisons: thus opium, arsenic, mercury, lead, and antimony are substances of this description, and this difference in their effect is ascribed to idiosyncrasy. Dr. Christison mentions a remarkable instance, in which a gentleman unaccustomed to the use of opium, took nearly an ounce of laudanum without any effect. ("On Poisons," 33.) This form of idiosyncrasy is very rare. Certain substances generally reputed harmless, and, indeed, used as articles of food, are observed to affect some persons like poisons. This is the case with pork, certain kinds of shell-fish, and mushrooms. There may be nothing poisonous in the food itself; but it acts as a poison in particular constitutions—whether from its being in these cases a poison *per se*, or rendered so by changes during the process of digestion, it is difficult to say. The subject of idiosyncrasy is of importance in a medico-legal view when symptoms resembling those of poisoning, follow a meal consisting of a particular kind of food. In such a case, without a knowledge of this peculiar condition, we might hastily attribute to poison, effects which were really due to another cause. It would appear that in some instances idiosyncrasy may be acquired—*i. e.* a person who, at one period of his life, had been in the habit of partaking of a particular kind of food without injury, may find at another period that it will disagree with him. When pork has been disused as an article of diet for many years it cannot always be resumed with impunity. In cases in which the powers of life have become enfeebled by age, the susceptibility of the system to poisons is increased: thus aged persons may be killed by comparatively small doses of arsenic and

opium. Cases of acquired idiosyncrasy are very rare: it appears to be, if we may so apply the term, a congenital condition. There are, however, certain diseases which appear to confer a power of supporting large and even poisonous doses of some substances. Very large doses of opium have been taken without producing dangerous symptoms by persons laboring under tetanus and hydrophobia. This condition is called *tolerance*. It has been witnessed in diseases of the lungs in reference to the use of antimonial medicines.

Classification of Poisons.—Poisons have been divided into three classes, according to their mode of action on the system; namely, Irritants, Narcotics, and Narcotico-Irritants. This classification is a modification of that originally proposed by Orfila. The Narcotics and Narcotico-irritants may, however, be regarded as constituting one large class, the Neurotics, as their special action is to affect directly one or more parts of the nervous system. The Neurotic poisons admit of a subdivision into Cerebral, Spinal, and Cerebro-spinal, according to whether the poisonous substance affects directly the brain, the spinal marrow, or both of these organs.

Irritants.—The irritants are possessed of these common characters. When taken in ordinary doses, they occasion speedily violent vomiting and purging. The symptoms are either accompanied or followed by pain in the stomach and bowels. The peculiar effects of the poison are manifested chiefly on these organs, which, as their name implies, they irritate and inflame. Many substances belonging to this class of poisons possess corrosive properties; such as the strong mineral acids, caustic alkalies, bromine, corrosive sublimate, and others. These, in the act of swallowing, are commonly accompanied by an acrid or burning taste, extending from the mouth down the gullet to the stomach. Some irritants do not possess any corrosive action—of which we have examples in arsenic, the poisonous salts of baryta, carbonate of lead, and cantharides; these are often called pure irritants. They exert no destructive chemical action on the tissues with which they come in contact; they simply irritate and inflame them.

Difference between Corrosive and Irritant Poisons.—As a result of the action of *corrosive* poisons, symptoms are commonly manifested immediately, because mere contact produces the destruction of a part. In the action of the purely *irritant* poisons, the symptoms are generally more slowly manifested, rarely showing themselves until at least half an hour has elapsed from the time of swallowing the substance. Of course, there are exceptions to this remark; for sometimes irritants act speedily, though rarely with the rapidity of corrosive poisons. It is important in a practical view, to ascertain whether, in an unknown case, the poison which a person, requiring immediate treatment, may have swallowed, is irritant or corrosive. This may be commonly determined by a knowledge of the time at which the symptoms appeared after the suspected substance was taken. We may thus often easily distinguish between a case of poisoning from arsenic and one from corrosive sublimate. There is also another point which may be noticed. As the corrosive substance exerts a

decidedly chemical action, an examination of the mouth and throat may enable us in some cases to solve the question.

It has already been stated that there are many irritant poisons which have no corrosive properties, but every corrosive may act as an irritant. Thus the action of corrosive sublimate is that of an irritant poison, as, while it destroys some parts of the coats of the stomach and intestines, it irritates and inflames others. So again most corrosive poisons may lose their corrosive properties by dilution with water, and then they act simply as irritants. This is the case with the mineral acids, and bromine. In some instances, it is not easy to say whether an irritant poison possesses corrosive properties or not. Thus oxalic acid acts immediately, and blanches and softens the mucous membrane of the mouth and throat, but I have not met with any decided marks of chemical corrosion produced by it in the stomach or viscera. Irritant poisons, for the most part, belong to the mineral kingdom; and they may be divided into the *Non-Metallic* and *Metallic* irritants. There are a few derived from the animal and vegetable kingdoms; but these, if we except cantharides, are not often employed criminally. Some of the gases likewise belong to the class of irritant poisons.

Neurotics.—Neurotic poisons act upon the nervous system, and their operation is confined chiefly to the brain and spinal marrow. Either immediately or some time after the poison has been swallowed, the patient suffers from headache, giddiness, numbness, paralysis, stupor, and in some instances, convulsions. They have not an acrid burning taste like the corrosive irritants; and they rarely give rise to vomiting or purging. When these symptoms follow the ingestion of the poison into the stomach, the effect may be generally ascribed either to the form or quantity in which it has been taken, and the mechanical effect on the stomach thereby produced, or to the poison being combined with some irritating substance, such as alcohol. The pure *narcotics*, or *Cerebral poisons*, are not found to irritate or inflame the stomach and bowels.

Notwithstanding the well-defined boundary thus apparently existing between these two classes of poisons, it must not be supposed that the substances arranged in each class, always act in the manner indicated. Some irritants have been observed to affect the brain or the spinal marrow, and this may be either a primary or a secondary consequence of their action. Arsenic and oxalic acid, although classed as irritants, have in some instances given rise to symptoms closely resembling those of narcotic poisoning; namely, coma, paralysis, and tetanic convulsions. In a case of poisoning by arsenic, which occurred to Dr. Morehead, of Bombay, the symptoms of narcotism were so strongly marked, that it was believed at first the man had taken a narcotic. ("Med. Gaz." vol. 43, p. 1055.) I have met with a case of poisoning by arsenic in which there was paralysis of the limbs, with an entire absence of purging, during the eight days that the deceased survived. On the other hand, in a case of poisoning by a large dose of opium, there was an absence of the usual symptoms of cerebral disturbance, and the presence of others resembling

those of irritant poisoning—namely, pain and vomiting. Thus, then, we must not allow ourselves to be misled by the idea that the symptoms are always clearly indicative of the kind of poison taken. The narcotic or cerebral poisons are few in number, and belong to the vegetable kingdom. Some of the poisonous gases possess a narcotic action.

Narcotico-Irritants. (*Spinal and Cerebro-spinal Poisons.*)—Poisons belonging to this class have, as the name implies, a compound action. They are chiefly derived from the vegetable kingdom. At variable periods after they have been swallowed, they give rise to vomiting and purging, like irritants; and sooner or later produce stupor, coma, paralysis and convulsions, owing to their effects on the brain and spinal marrow. In the state of vegetables, as leaves, seeds, or roots, they possess the property, like irritants, of irritating and inflaming the stomach and bowels. As familiar examples we may point to nux vomica, monkshood, hemlock, and poisonous mushrooms. This class of poisons is very numerous, embracing a large variety of well-known vegetable substances; but they rarely form a subject of difficulty to a medical practitioner. The fact of the symptoms occurring after a meal at which some suspicious vegetables may have been eaten, coupled with the nature of the symptoms themselves, will commonly indicate the class to which the poison belongs. Some of these poisons have a hot acrid taste; others, like aconite or monkshood, produce a sense of numbness or tingling, while others again have an intensely bitter taste, as nux vomica, strychnia, veratria, and picrotoxia. Strychnia may be regarded as a pure spinal poison.

CHAPTER V.

EVIDENCE OF POISONING IN THE LIVING BODY.—ACTION OF POISONS INCREASED OR DIMINISHED BY DISEASE.—SYMPTOMS CONNECTED WITH FOOD OR MEDICINE.—SEVERAL PERSONS ATTACKED SIMULTANEOUSLY.—EVIDENCE FROM THE DETECTION OF POISON IN THE FOOD.

We now proceed to consider the evidence of poisoning in the *living* body. To the practitioner the diagnosis of a case of poisoning is of great importance, as by mistaking the symptoms produced by a poison for those arising from natural disease, he may omit to employ the remedial measures which have been found efficacious in counteracting its effects, and thus lead to the certain death of the patient. To a medical jurist a correct knowledge of the symptoms furnishes the chief evidence of poisoning, in those cases in which persons are charged with the malicious and unlawful administration of poison. The symptoms produced during life, constitute also an important part of the evidence in those instances in which a poison

proves fatal. At present, however, we will suppose the case to be, that poison has been taken and the patient survives. Most toxicological writers have laid down certain characters whereby it is said symptoms of poisoning may be distinguished from those of disease.

1. *In poisoning, the symptoms appear suddenly, while the individual is in health.*—It is the common character of most poisons, when taken in the large doses in which they are usually administered with criminal intent, to produce serious symptoms, either immediately or within a very short period after they have been swallowed. Their operation, under such circumstances, cannot be suspended, and then manifest itself after an indefinite interval; although this was formerly a matter of universal belief, and gave rise to many absurd accounts of what was termed *slow* poisoning.

The symptoms of poisoning by nicotina, prussic acid, oxalic acid, or the salts of strychnia, appear immediately, or generally within a very few minutes after the poison has been swallowed. In an exceptional case, in which the dose of prussic acid was small, and insufficient to produce death, the poison was supposed by the patient not to have begun to act until after the lapse of fifteen minutes. ("Ed. Med. and Surg. Journ." vol. 59, p. 72.) The symptoms caused by arsenic and other irritants, and, indeed, by all poisons generally, are commonly manifested in from half an hour to an hour. It is rare that the appearance of symptoms is protracted for two hours, except under certain peculiar states of the system. It is said that some narcotic poisons, such as the poisonous mushrooms, may remain in the stomach twelve or twenty-four hours without giving rise to symptoms; and this is also affirmed to be the case with some animal irritants, such as decayed meat; but with regard to the first point, it has been shown by Dr. Peddie that mushrooms have produced symptoms in half an hour; and a case has fallen under my own observation, in which the symptoms from noxious animal food came on within as short a time after the meal, as is commonly observed in irritant poisoning by mineral substances. In some cases of poisoning by phosphorus, no symptoms have occurred until after the lapse of several hours.

Influence of Disease.—A *diseased* state of the body may render a person comparatively unsusceptible of the action of certain poisons, while in other instances it may increase their action, and render them fatal in small doses. In dysentery and tetanus a person may take, without being materially affected, a quantity of opium sufficient to kill an adult in average health. In mania, cholera, hysteria, and delirium tremens, large doses of opium may be borne with comparative impunity (p. 65). In a case of hemiplegia, a woman æt. 29, took for six days, three grains of strychnia daily without injurious consequences—the dose having been gradually raised ("Gaz. Méd." Mai 1845);—while one grain of strychnia is commonly regarded as a fatal dose to a healthy adult. In a case of tetanus, Dupuytren gave as much as two ounces of opium at a dose (60 grammes), without serious consequences. (Flandin, "Traité des Poisons," vol. 1, p. 231.) It has also been remarked that persons affected with tetanus are not

easily salivated by mercury. The morbid state appears to create the power of resisting the ordinary effects of poisons. ("Colles's Lectures," vol. 1, p. 77.) The effect of certain diseases of the nervous system, as well as of habit, either in retarding the appearance of symptoms or in blunting the operations of a poison, it is not difficult to appreciate; they are cases which can present no practical difficulty to a medical jurist. On the other hand, in certain diseased states of the system, there may be an increased susceptibility of the action of poison. Thus, in those persons who have a disposition to apoplexy, a small dose of opium may act more quickly and prove fatal. In a person laboring under inflammation of the stomach or bowels, there would be an increased susceptibility of the effects of arsenic, antimony, or other irritants. In debility from any cause these mineral substances would also act injuriously even in ordinary doses. Antimony is a most powerful depressant, and might, by its effect on the heart, cause death by syncope. The influence of disease in increasing the operation of poison, has been noticed in cases of diseased kidney (granular degeneration), in which small doses of mercury have produced severe salivation, leading to exhaustion and death. In diseases of the lungs affecting aged persons, opium in medicinal doses, has been observed to exert a poisonous action. The effect of the drug appears to be intensified by the disease. This observation applies equally to morphia. Chloroform vapor in ordinary quantity has been found to produce fatal effects, in cases in which there was latent disease of the heart or of the coronary arteries of this organ. A fatty condition of the muscular tissue leading to great feebleness of the heart's action, appears to be highly favorable to death by syncope, under the use of chloroform. A knowledge of these facts is of importance in reference to charges of malapraxis when death has arisen from ordinary or extraordinary doses of medicines, administered to persons laboring under disease. In such cases, another mode of treatment should be substituted, or a smaller dose than usual given, and its effects carefully watched. In some instances, however, full and large doses of powerful drugs have been recklessly given, and when a fatal result has followed, there has been a strong disposition to refer death to the supposed disease, of which, however, sometimes no trace could be found in the body. An experienced physician, well acquainted with pathological anatomy, informs me that since the use of chloroform has become general, and deaths under its use are not unfrequent, a fattiness and flabbiness of the muscular structure of the heart has been sought for and almost universally found! The fatal result has not been attributed to its real cause, the imprudent or careless administration of chloroform, but to some minute structural changes revealed by the microscope in the substance of the organ.

Symptoms appear during a state of health.—Symptoms of poisoning may manifest themselves in a person while in a state of *perfect health*, without any apparent cause. This rule is, of course, open to numerous exceptions, because the person on whose life an attempt has been made, may be actually laboring under disease; and under these cir-

cumstances the symptoms may be so obscure as to disarm all suspicion. When poison is exhibited in medicine, a practitioner is very liable to be deceived, especially if the disease under which the person is laboring is of an acute nature, and is attended by symptoms of disorder in the alimentary canal. Several cases of poisoning have occurred in which arsenic was criminally substituted for medicine, and given to the parties while laboring under a disorder of the bowels. We are, however, justified in saying, with respect to this character of poisoning, that when in a previously healthy person, violent vomiting and purging occur suddenly and without any assignable cause, such as pregnancy, disease, or indiscretion in diet, to account for them, there is strong reason to suspect that irritant poison has been taken. When the person is already laboring under disease, we must be especially watchful on the occurrence of any sudden change in the character or violence of the symptoms, unless such change can be easily accounted for on common or well-known medical principles. In most cases of criminal poisoning we meet with alarming symptoms without any obvious or sufficient natural causes to explain them. The practitioner will, of course, be aware that there are certain diseases which are liable to occur suddenly in healthy people, the exact cause of which may not at first sight be apparent; therefore this criterion is only one out of many on which a medical opinion should be founded.

2. *In poisoning the symptoms appear soon after a meal, or soon after some kind of food or medicine has been taken.*—This is by far the most important character of poisoning in the living body. It has been already stated that most poisons begin to operate within an hour after they have been swallowed; and although there are few exceptions to this remark, yet they occur under circumstances easily to be appreciated by a practitioner. Thus, then, it follows that, supposing the symptoms under which a person is laboring, to depend on poison, the substance has most probably been swallowed, either in food or medicine, from half an hour to an hour previously. It must be observed, however, that causes may occur in which the poison has not been introduced by the mouth. Oil of vitriol and other corrosive liquids have been thrown up the rectum in injections, and have thus caused death; the external application of arsenic, corrosive sublimate, and cantharides to ulcerated surfaces has destroyed life. In one case, arsenic was introduced into the vagina of a female, and she died in five days under all the symptoms of arsenical poisoning. (Schneider, "Ann. der. ges. Staatsarzneikunde," i. 299.) Such cases are rare, but, nevertheless, the certainty that they have occurred, where their occurrence could hardly have been anticipated, shows that in a suspicious case a practitioner should not deny the fact of poisoning, merely because it may be proved that the person could not have taken the poison in the usual way, by the mouth. Again, persons may be destroyed by the vapors of ether, chloroform, prussic acid, or other powerful volatile poisons, introduced into the body through the lungs. Such a mode of suicide, or murder, might disarm suspicion, from the fact of no noxious material being found in the stomach.

Let us suppose, however, the circumstances to have been such that

these secret means of destruction could not have been resorted to, and that the poison is one of those most commonly selected by a murderer, such as arsenic, tartar emetic, oxalic acid, or corrosive sublimate, then we may expect that this character of poisoning will be made evident to us, and that something must have been *swallowed* by the patient shortly before the alarming symptoms appeared. By observations attentively made, it may be in our power to connect the appearance of the symptoms with the use of a particular article of food, and thus indirectly lead to the detection of a criminal. Supposing that many hours have passed since food or medicine was taken by the patient, without any effect ensuing—it is probable that the symptoms are due to natural causes and not to poison. When symptoms resembling those of poisoning speedily follow the ingestion of food or medicine, there is, however, reasonable ground for suspicion; but caution should be observed in drawing inferences, since the most extraordinary coincidences sometimes present themselves. In the case of *Sir Theodosius Boughton*, who was poisoned by his brother-in-law, Donnellan, in 1781, the fact of alarming symptoms coming on in *two minutes* after the deceased had swallowed what was supposed to be a simple medicinal draught, was a most important part of the evidence against the prisoner. There is no doubt that laurel-water had been substituted for the medicine by the prisoner, and that this had caused the symptoms which preceded death. The practice of substituting poisonous mixtures for medicinal draughts or powders is by no means unusual, although it might be supposed to indicate a degree of refinement and knowledge not commonly to be found among criminals. Medical practitioners are thus apt to be imposed upon, and the following case, related by a deceased judge, will serve as a caution: An apothecary prepared a draught, into which another person put poison, intending thereby to destroy the life of the patient for whom the medicine was prescribed. The patient, not liking the taste of the draught, and thinking there was something suspicious about it, sent it back to the apothecary, who, knowing the ingredients of which he had composed it, and wishing to prove to his patient that he had done nothing wrong, drank it himself, and died from the effects. He was thus the unconscious agent of his own death; and although the draught was intended for another, the party who poisoned it was held guilty of murder. This case contains a warning to medical witnesses. It is not unusual, on trials for poisoning, when the poison is conveyed through medicine, to find a medical witness offering to swallow his own draught in a court of law, in order to furnish a convincing practical illustration of the innocence of the medicine! It need hardly be observed that an exhibition of this kind is never required of a medical witness. If any doubt be raised of the innocent properties of a draught or powder, a chemical analysis of its contents will be far more satisfactory, and attended with no kind of risk to the practitioner.

On the other hand, the occurrence of symptoms resembling those produced by poisoning, soon after food or medicine has been taken, may be a pure coincidence. In such a case, poison is always suspected by the vulgar; and it will be the duty of a medical jurist to

guard against the encouragement of such a suspicion, until he has strong grounds to believe it to be well founded. No public retractation or apology can ever make amends for the injury which may in this way be inflicted on the reputation of another; for those who hear the accusation may never hear the defence. In all such cases, a practitioner may entertain a suspicion, but, until confirmed by facts, he should avoid *expressing* it, or giving it publicity. When death is not a consequence, it is difficult to clear up such cases, except by the aid of a chemical analysis; but this, as we know, is not always applicable. If death ensue, the real cause is usually apparent, and a suspicion of poisoning is thus often removed by an examination of the body.

3. *In poisoning, when several partake at the same time of the same food or medicine (mixed with poison) all suffer from similar symptoms.*— This character of poisoning cannot always be procured: but it furnishes good evidence of the fact when it exists. Thus, supposing that after a meal made by several persons from the same dish, only one suffers, the suspicion of poisoning is considerably weakened. The poisoned article of food may be detected by observing whether they who suffer under any symptoms of poisoning have partaken of one particular solid or liquid in common. In a case of accidental poisoning at a dinner-party, a medical man who was present observed that those who suffered had taken port-wine only; the contents of the bottle were examined, and found to be a saturated solution of arsenic in wine. In general, considerable reliance may be placed upon this character, because it is improbable that any common cause of disease should suddenly attack with violent symptoms of a similar character, many healthy persons at the same time, and within a short period after having partaken of food together. We must beware of supposing that, when poison is really present, all will be attacked with precisely similar symptoms; because there are many circumstances which may modify their nature and progress. In general that person who has partaken most freely of the poisoned dish will suffer most severely; but even this does not always follow. There is a well-known case, recorded by Bonnet, where, among several persons who partook of a dish poisoned with arsenic, they who had eaten little and *did not vomit*, speedily died; while others who had partaken largely of the dish, and had in consequence vomited freely, recovered.

It was just now remarked, that there is no disease resembling poisoning which is likely to attack several healthy persons at the same time and in the same manner. This is undoubtedly true as a general principle, but the following case will show that mistakes may occasionally arise even under these circumstances. It occurred in London during the prevalence of the malignant cholera in 1832. Four of the members of a family, living in a state of great domestic unhappiness, sat down to dinner in apparently good health: some time after the meal, the father, mother, and daughter were suddenly seized with violent vomiting and purging. The evacuations were tinged with blood, while the blueness of the skin, observed in cases of malignant cholera, was absent. Two of these persons died. The son, who was known to have borne ill-will against his father and mother, and who

suffered no symptoms on this occasion, was accused of having poisoned them. At the inquest, however, it was clearly shown by the medical attendant, that the deceased persons had really died of malignant cholera, and there was no reason to suspect that any poison had been administered to them. In this instance it will be perceived that symptoms resembling those of irritant poison, appeared suddenly in several individuals in perfect health, and shortly after a meal. We hereby learn that the utility of any rules for investigating cases of poisoning, depends entirely on the judgment and discretion with which they are applied to particular cases.

It is well to bear in mind, in conducting these inquiries, that symptoms resembling those produced by irritant poison, may be sometimes traced to *food*. Meat, rendered unwholesome by disease or decay, pork, bacon, sausages, cheese and bread, as well as certain kinds of shell-fish, may give rise to symptoms of poisoning, and even cause death. Such cases may be regarded as poisoning by animal or vegetable irritants. All the characters above described, as indicative of poisoning, may be observed, and the difficulty of forming an opinion is often increased by the fact that some of the persons attacked, may have previously partaken of the same kind of food without inconvenience.

4. *The discovery of poison in the food taken, or in the matters vomited.*— One of the strongest proofs of poisoning in the living subject, is the detection of poison by chemical analysis, or, if of a vegetable nature, by a microscopical examination, either in the food taken by the person laboring under its effects, or in the matters vomited, or, after the lapse of a few hours, in the urine. The evidence is of course more satisfactory when the poison is detected in the matters vomited or in the urine, than in the food; because this will show that it has really been taken, and it will readily account for the symptoms. If the vomited matters have been thrown away, we must examine the food of which the patient may have partaken. Should the results in both cases be negative, and no trace of poison be found in the urine, it is probable that the symptoms were due to disease.

In investigating a case of poisoning in a living subject, a medical jurist must remember, that poisoning is sometimes *feigned*, and at others *imputed*. It is easy for an artful person to put poison into food, as well as to introduce it into the matters vomited or discharged from the bowels, and to accuse another of having administered it. There are few of these accusers who go so far as to swallow poison under such circumstances, as there is a great dread of poisonous substances among this class of criminals; and it will be at once apparent, that it would require a person well versed in toxicology, to feign a series of symptoms which would impose upon a practitioner at all acquainted with the subject. In short, the difficulty reduces itself to this: What inference can be drawn from a chemical detection of poison in food? All that a medical man can say is, whether poison is or is not present in a particular article of food: he must leave it to the authorities of the law to develop the alleged attempt at administration. If the poison has been actually administered or taken,

then we should expect to find that the person had suffered from the usual symptoms. The absence of these symptoms would be a strong fact against the alleged administration. The detection of poison in the matters vomited, affords no decisive proof that it has been swallowed, except under two circumstances: 1. When the accuser has previously labored under the usual symptoms of poisoning, in which case there can be no feigning, and the question of imputation is a matter to be established by general evidence. 2. When the matters are actually vomited into a *clean vessel* in the presence of the medical attendant himself, or of some person on whose testimony perfect reliance can be placed. The detection of absorbed poison in the *urine*, furnishes a clear proof that poison has been taken, that it has passed into the blood, and has been subsequently eliminated.

When a medical man is called to a case of suspected poisoning, it is necessary that he should know to what points he ought to give his attention. It is very proper that every effort should be made by him to save life when the individual is living: but while engaged in one duty, it is also in his power to perform another, supposing the case to be one of suspected criminal poisoning, namely, to note down many circumstances which may tend to detect the perpetrator of a crime. There is no person so well fitted to observe these points as a medical man; but it unfortunately happens, that many facts important as evidence are often overlooked. The necessity for observing and recording them is not perhaps generally known. A medical man need not make himself officious on such occasions, but he would be unmindful of his duty as a member of society, if he did not aid the cause of justice by extending his scientific knowledge to the detection of crime. It is much to the credit of the medical profession, that the crime of murder by poisoning, a form of death from which no caution or foresight can protect a person, is so frequently brought to light, by the announcement of suspicious facts of a medical nature to magistrates and coroners; and on several occasions the highest compliments have been passed by judges on medical men who have been thus indirectly the means of bringing atrocious criminals to the bar of justice.

The following appear to me to be the principal points which demand the attention of a medical jurist in all cases of suspected poisoning: 1. With respect to

Symptoms.—1. The time of their occurrence—their nature. 2. The exact period at which they were observed to take place after a meal, or after food or medicine had been taken. 3. The order of their occurrence. 4. Whether there was any remission or intermission in their progress, or, whether they continued to become more and more aggravated until death. 5. Whether the patient had labored under any previous illness. 6. Whether the symptoms were observed to recur more violently after a particular meal, or after any particular kind of food or medicine. 7. Whether the patient has vomited:—the vomited matters, if any (especially those *first* ejected), should be procured: their odor, color, and acid or alkaline reaction noted, as well as their quantity. 8. If none be procurable, and the vomiting

has taken place on the dress, furniture, or floor of a room—then a portion of the clothing, sheet, or carpet, may be cut out and reserved for analysis;—if the vomiting has occurred on a deal floor, a portion of the wood may be scraped or cut out:—or if on a stone pavement, then a clean sponge soaked in distilled water may be used to remove any traces of the substance. The vessel in which vomited matters have been contained will often furnish valuable evidence, since heavy mineral poisons fall to the bottom, or adhere to the sides. 9. Endeavor to ascertain the probable nature of the food or medicine last taken, and the exact *time* at which it was taken. 10. Ascertain the nature of *all* the different articles of food used at a meal. 11. Any suspected articles of food, as well as the vomited matters should be sealed up as soon as possible in clean glass vessels, labelled, and reserved for analysis. 12. Note down in their own words, all explanations voluntarily made by persons present, or who are supposed to be concerned in the suspected poisoning. 13. Whether more than one person partook of the food or medicine:—if so, whether all these persons were affected, and how? 14. Whether the same kind of food or medicine had been taken before by the patient or other persons without ill effects following.

CHAPTER VI.

ON THE EVIDENCE OF POISONING IN THE DEAD BODY.—PERIOD AT WHICH POISONS PROVE FATAL.—CHRONIC POISONING.—APPEARANCES PRODUCED BY THE DIFFERENT CLASSES OF POISONS.—REDNESS OF THE MUCOUS MEMBRANE MISTAKEN FOR INFLAMMATION.—ULCERATION AND CORROSION.—SOFTENING.—PERFORATION OF THE STOMACH FROM POISON AND DISEASE.

SUPPOSING that the person is dead, and we are required to determine whether the case is one of poisoning or not, we must, in the first instance, endeavor to ascertain all the particulars which have been considered in the last chapter, as indicative of poisoning in the living body. Should the deceased have died from poison, the circumstances of the attack, and the symptoms preceding death, ought to correspond with the characters already described; and in these investigations, it is well to bear in mind the following rule: There is no one symptom or pathological condition which is peculiar to poisoning; but at the same time there is probably no disease which presents *all* those characters which are met with in a special case of poisoning. The additional evidence to be derived from the *death* of a person, may be considered under the following heads:—

1 *The time at which death takes place after the first occurrence of symptoms.*—This question requires examination, because the more common poisons, when taken in fatal doses, generally cause death within

definite periods of time. By an attention to this point, we may, in some instances, be enabled to negative a charge of poisoning, and in others to form an opinion of the kind of poison which has been taken. In a court of law, a medical practitioner is often required to state the usual *period of time* within which poisons prove fatal. It is to be observed that, not only do poisons differ from each other in this respect, but the same substance, according to the form or quantity in which it has been taken, may differ in the rapidity of its action. A large dose of prussic acid, *i. e.* from half an ounce to an ounce, may destroy life in less than two minutes. In ordinary cases of poisoning by this substance a person dies, *i. e.* all signs of life have commonly ceased, in from ten to twenty minutes: if he survives half an hour, there is some hope of recovery. In the cases of seven epileptics, accidentally poisoned by a similar dose of this acid in one of the Parisian hospitals, the first died in about twenty minutes, the seventh survived three-quarters of an hour. Oxalic acid, one of the most energetic of the common poisons, when taken in a dose of from half an ounce to an ounce, may destroy life in from ten minutes to an hour: if the poison is not perfectly dissolved when swallowed, it is a longer time in proving fatal. The strong mineral acids, in poisonous doses, destroy life in about eighteen or twenty-four hours. Arsenic, under the form of arsenious acid (white arsenic), operates fatally in from eighteen hours to three or four days. It has, however, in more than one instance, killed a person in two hours. Opium, either as a solid or under the form of laudanum, commonly proves fatal in from six to twelve hours; but it has been known, in several instances, to destroy life in less than three hours: they who survive the effects of this poison for twelve hours, are considered to have a fair chance of recovery. This must be understood to be merely a statement of the average results, as nearly as we are warranted in giving an opinion; but the medical jurist will of course be aware that the fatal period may be protracted or shortened, according to all those circumstances which have been elsewhere stated to affect the action of poisons.

There are various forms which this question may assume. It may be said that the death of a person, alleged to have taken poison, has occurred either too rapidly or too slowly to justify a suspicion of poisoning. The following case will serve as an illustration: A woman of the name of *Russell* was tried and convicted at the Lewes Summer Assizes, in 1826, for the murder of her husband, by poisoning him with arsenic. The poison was detected in the stomach; but the fact of poisoning was disputed by some medical witnesses, for this among other reasons, that the deceased had died *three* hours after the only meal at which the poison could have been administered to him. The authority of Sir A. Cooper and others was cited to show that, according to their experience, they had never known a case of poisoning by arsenic to have proved fatal in less than seven hours. This may be admitted, but, at the same time, there was sufficient authority on the other side to establish that some cases had actually proved fatal in three or four hours. So far as this objection

was concerned, the prisoner was properly convicted. In reference to the medical question raised at this trial, I may observe that two distinct cases have since occurred in which the individuals died certainly within *two hours* after taking arsenic; and several instances have been reported, in which death has taken place in from three to four hours after the administration of this poison. It seems extraordinary in the present day, that any attempt should have been made by a professional man to negative a charge of criminal poisoning upon so weak a ground as this; but this opinion was expressed many years ago, when the facts connected with poisoning were but little known. It is quite obvious that there is nothing, so far as we know, to prevent arsenic from destroying life in an hour, or even within a shorter period. A case will be hereafter related, in which death took place from arsenic probably within twenty minutes. These matters can be settled only by a careful observation of numerous cases, and not by any *à priori* reasoning, or by a limited individual experience.

In all instances of sudden death there is generally a strong tendency on the part of the public to suspect poisoning. They never can be brought to consider that persons may die a natural death *suddenly*, as well as slowly; or, as we shall presently see, that death may really take place slowly, and yet be due to poison. This prejudice continually gives rise to the most unfounded suspicions of poisoning, and, at the same time, leads to cases of chronic or slow poison being frequently mistaken for natural disease. One of the means recommended for narcotic poisoning from apoplexy or disease of the heart, is the difference in the rapidity with which death takes place. Thus, apoplexy or disease of the heart may prove fatal either instantly or within an hour. The only poisons likely to operate with such fatal rapidity, are prussic acid or nicotina. Poisoning by opium is commonly protracted for five or six hours. This poison has never been known to destroy life instantaneously, or within a few minutes. Thus, then, it may happen that death will occur with such rapidity as to render it impossible, under the circumstances, to attribute it to narcotic poison.

Chronic poisoning.—When a poison destroys life rapidly, it is called a case of *acute* poisoning, to distinguish it from the *chronic* form, *i. e.* in which death takes place slowly. Chronic poisoning is a subject which has of late frequently required medico-legal investigation. Most poisons, when their effects are not rapidly manifested, owing either to the smallness of the dose or to timely treatment, are capable of slowly undermining the powers of life, and killing the patient by producing emaciation and exhaustion. This is sometimes observed in the action of arsenic, corrosive sublimate, and tartarized antimony, but it has been remarked also in cases of poisoning by the mineral acids and caustic alkalies. Death is here an indirect consequence: in poisoning by the acids or alkalies, either stricture of the gullet is induced, or the lining membrane of the stomach is destroyed, and the process of digestion impaired, a condition which leads to exhaustion and death. The time at which these indirect effects may prove fatal, is of course liable to vary. A person has been known

to die from a stricture of the gullet, brought on by sulphuric acid, *eleven months* after the poison was swallowed; and there is no reason to doubt that instances may occur of a still more protracted nature. In cases of *chronic poisoning* there is sometimes great difficulty in assigning death exclusively to the original action of the poison, since the habits of life of the person, a tendency to disease, and other circumstances, may have occurred either to accelerate or produce a fatal result. To connect a stricture of the gullet proving fatal, with the effects of poisoning by a mineral acid, it would be necessary to show that there was no tendency to this disease before the acid was administered; that the symptoms appeared soon after the first effects of the poison went off; that these symptoms continued to become aggravated until the time of death, and lastly that there was no other cause to which death could with any probability be referred. These remarks apply equally to the secondary fatal effects of any poison, such, for instance, as the salivation occasionally induced by corrosive sublimate, and the exhaustion and depression which are caused by tartarized antimony, when the acute symptoms of poisoning by these substances have passed away.

The characters of chronic poisoning have of late years acquired a special interest for the medical jurist. There is a difficulty about them which no accuracy of observation or judgment can surmount. The poison or poisons, if found in the dead body at all, must necessarily exist in fractional parts of a grain. This alone will be sufficient to create a doubt whether death has been caused by the poison, although it is quite consistent with medical experience that a person may die from chronic poisoning, and little or none of the poison be found in the body after death. In the case of Mrs. James (*Reg.* v. *Winslow*), not more than the tenth part of a grain was found in the whole of the tissues of the body; in the case of Isabella Banks (*Reg.* v. *Smethurst*), the quantity was greater than this, but less than a grain altogether; while in the case of Mrs. *Peters*, of Yeovil, examined by Mr. Herapath, *none* was found in the body, although this chemist had extracted a quantity of antimony as sulphide from the urine of deceased, in less than nine days before death. In this case Dr. Garland had also found antimony in the evacuations during life, and had referred the intermittent irritation of the stomach and bowels, from which deceased had suffered, to the secret use of this mineral. The jury returned a verdict that deceased had died from disease, and that death was accelerated by some irritant. ("Lancet," August 4th, 1860, p. 119.) On some recent trials for poisoning (*Reg.* v. *William Palmer*, C. C. C. 1856), it has been a contested scientific question, whether a person can die from poison and no trace of the poison remain in the body. Mr. Herapath's evidence in Mrs. Peters' case not only now proves the affirmative, but goes to show that antimony may act fatally and be entirely eliminated from the system in about a week. ("Med. Times and Gaz." Aug. 25, Sept. 15, and 29, 1860, pp. 190, 271, 317.)

2. *Evidence from Appearances in the Body.*—One of the chief means of determining whether a person has died from poison, is an exami-

nation of the body after death. In relation to *external* appearances, there are none indicative of poisoning upon which we can safely rely. It was formerly supposed that the bodies of persons who were poisoned, putrefied more rapidly than those of others who had died from natural disease; and evidence for or against poisoning was at one time derived from the external appearance of the body. This is now known to be an error; the bodies of persons poisoned are not more rapidly decomposed, *cæteris paribus*, than those of others who have died a sudden and violent death from any cause whatever.

Irritant poisons act chiefly upon the stomach and intestines, which they irritate, inflame, and corrode. We may likewise meet with all the consequences of inflammation, such as softening, thickening, ulceration, perforation, or gangrene. Sometimes the coats of the viscera are thickened, at other times thinned and softened, by the action of an irritant.

Neurotic (*Cerebral and Spinal*) poisons do not commonly leave any well-marked appearances in the body. The stomach and intestines present no unnatural changes. There may be greater or less fulness of the vessels of the brain and spinal marrow, as well as of their membranes; but even this is often so slight as to escape notice, unless attention be particularly directed to these organs. Effusion of blood is rarely found.

The *Narcotico-irritant* or *Cerebro-spinal* poisons may affect either the brain or the stomach and bowels, and commonly all these parts according to their peculiar mode of action.

It is important to bear in mind, that both Irritants and Neurotics may destroy life without leaving any appreciable changes in the body. To such cases as these, the remarks about to be made do not apply. The proofs of poisoning must, in such exceptional cases, be procured entirely from other sources. Any evidence derivable from the appearances in the body of a person poisoned, will be imperfect unless we are able to distinguish them from those analogous changes often met with as the results of ordinary disease. These are confined to the mucous membrane of the stomach and bowels. They are redness, ulceration, softening, and perforation. Each of these conditions may depend upon disease, as well as upon the action of irritant poisons.

Redness.—It is a main character of the irritants to produce, as a result of inflammation, redness of the mucous or lining membrane of the stomach and small intestines. This redness, when first seen, is usually of a deep crimson color, becoming brighter by exposure to air. It may be diffused over the whole mucous membrane; at other times it is seen in patches, dots, or lines (striæ), spread irregularly over the surface of the stomach. It is sometimes met with at the smaller, but more commonly at the larger end of this organ, and again we occasionally find the folds or prominences only of the mucous membrane presenting this red or inflamed appearance. Redness of the mucous membrane may, however, be due to gastritis or gastro-enteritis as a result of disease; and in order to assign the true cause of the inflammation, it will be necessary to have an account of the

symptoms preceding death, or some chemical proof of the existence of irritant poison in the contents of the stomach or in the tissues of the body.

In the healthy state, the mucous membrane of the stomach is pale and white, or nearly so, except during digestion, when it is slightly reddened; and some observers have remarked that a slight redness has often remained in the stomachs of those who have died during the performance of the digestive process. When in contact with the spleen or liver, after death, the stomach is apt to acquire a deep livid color from the transudation of blood; and it is well known that the bowels acquire a somewhat similar color from the gravitation of blood which always takes place after death. None of these appearances are likely to be mistaken for the action of an irritant poison.

There is an important class of cases in which redness of the mucous membrane of the stomach is found after death, not dependent on the action of poison or on any easily assignable cause. These cases, owing to their being so little known, and involved in much obscurity, deserve the attention of a medical jurist, since the appearances closely resemble those produced by irritant poison. A person may die without suffering from any symptoms of disordered stomach; but on an inspection of the body, a general redness of the mucous membrane of this organ will be found, not distinguishable from the redness which is so commonly seen in arsenical poisoning. Several cases of this kind have occurred at Guy's Hospital: and drawings which have been made of the appearance presented by the stomach, are preserved in the Museum collection.

The redness of the lining membrane of the stomach, in cases of poisoning, is so speedily altered by putrefaction, when circumstances are favorable to this process, as frequently to render it impossible for a witness to speak with any certainty upon its cause. Putrefactive infiltration from the blood contained in the adjacent viscera and muscles, will give a reddish-colored appearance to a stomach otherwise in a healthy condition. Great dispute has arisen respecting the length of time during which redness of the stomach produced by an irritant will be recognizable and easily distinguishable from putrefactive changes. It is sufficient to say, that no certain rule can be laid down on the subject: it must be left to the knowledge and discretion of the witness. I have distinctly seen the well-marked appearances of inflammation produced by arsenic in the stomach and duodenum in an exhumed body twenty-eight days after interment (*Reg.* v. *Jennings*, Berks Lent Ass. 1845); and in another instance, referred to me by Mr. Lewis, the coroner for Essex, in August, 1846, the reddened state of the mucous membrane, in a case of arsenical poisoning, was plainly perceptible on removing a layer of arsenic, *nineteen months* after interment. (See, on this question, a case of suspected poisoning by Orfila, "Annales d'Hyg." 1839, vol. 1, p. 127.) If, however, there should be a reasonable doubt respecting the cause of redness, and no poison is detected, it would be unsafe to rely upon this appearance alone as evidence of poisoning.

Ulceration.—In irritant poisoning the stomach is occasionally found

ulcerated; but this is, comparatively speaking, a rare occurrence. In such cases the mucous membrane is removed in small distinct circular patches, under the edges of which the poison (arsenic) may be found. Ulceration of the stomach is a more common result of disease, than of the action of poison. As a consequence of disease, it is very insidious, going on often for weeks together, without giving any indication of its existence, except perhaps slight gastric disturbance with occasional nausea, vomiting, and loss of appetite. In this case, the ulceration is commonly seen in small circumscribed patches. It is worthy of remark, as a means of distinction, that ulceration has never been known to take place from arsenic or any irritant poison, until symptoms indicative of irritant poisoning have occurred. In ulceration from disease, the mucous membrane is commonly only reddened in the neighborhood of the ulcer. In ulceration from poison, the redness is generally diffused over other parts of the stomach, as well as over the duodenum and small intestines. A case, however, occurred in Guy's Hospital, some years ago, in which, with a small circular patch of ulceration near the cardiac opening, the whole mucous membrane was red and injected; but this singular condition of the stomach, so closely resembling the effects of an irritant poison, was unaccompanied by any marked symptoms of irritation during life. The history of a case previous to death will thus commonly enable us to determine to what cause the ulceration found, may be due. Care must be taken to distinguish ulceration from *corrosion*. Ulceration is a vital process: the substance of a part is removed by the absorbents as a simple result of inflammation. Corrosion, on the other hand, is a chemical action; the parts are removed by the immediate contact of the poison: they are decomposed: their vitality is destroyed, and they combine with the corrosive matter itself. Ulceration requires time for its establishment, while corrosion is either an instantaneous or a very rapid effect.

Softening.—The coats of the stomach are not unfrequently found so soft as to yield and break down under very slight pressure; and this may be the result either of poisoning, of some spontaneous morbid change in its structure during life, or of the solvent action of the gastric juice after death. As this condition of the stomach, when caused by poison, is produced by those substances only which possess corrosive properties, it follows that in such cases traces of their action will be perceived in the mouth, throat, and gullet. In softening from disease, the change will be confined to the stomach alone, and it is commonly found only at the cardiac or greater end of the organ. When softening is really caused by an irritant poison, it is generally attended by other striking and unambiguous marks of its operation. Softening is not to be regarded as a common character of poisoning: it is only an occasional appearance. I have met with an instance in which the coats of the stomach were considerably hardened by sulphuric acid. Softening can never be inferred to have proceeded from poison, unless other well-marked changes are present, or unless the poison is discovered in the softened parts. The stomachs of infants have been frequently found softened from natural causes: such cases

could not be mistaken for poisoning, since the history of them during life, the want of other appearances indicative of poisoning, and the total absence of poison from the viscera, would prevent such a suspicion from being entertained.

Perforation.—The stomach may become perforated, either as a result of poisoning or disease.

Perforation from Poisoning.—This may arise: 1, from corrosion; 2, from ulceration. The perforation by *corrosion* is by far the most common variety of perforation from poisoning. It is occasionally witnessed when the strong mineral acids have been taken, especially sulphuric acid; the stomach, in such cases, is blackened and extensively destroyed, the aperture is large, the edges are rough and irregular, and the coats are easily lacerated. The acid escapes into the abdomen, and may be readily detected there by chemical analysis. The perforation from *ulceration*, caused by irritant poison (arsenic), is but little known. There are but few instances on record. In a great number of poisoned subjects examined during many years past at Guy's Hospital, not a single case has occurred. It must, then, be looked upon as a rare appearance in cases of irritant poisoning.

Perforation from Disease.—This is by no means an unusual condition. Many cases of this disease will be found reported elsewhere. ("Guy's Hosp. Rep." No. 8.) It is invariably fatal when it proceeds so far that the contents of the stomach escape into the abdomen; but sometimes the stomach becomes glued to the pancreas or other organs during the ulcerative process, and then the person may recover. Several instances of this kind of adhesion have been met with in inspections. The symptoms from perforation commonly attack a person suddenly, while apparently enjoying perfect health. Hence these cases may be easily mistaken for those of irritant poisoning. The principal facts observed with regard to this formidable disease are the following: 1. It often attacks young women from eighteen to twenty-three years of age. 2. The preceding illness is extremely slight; sometimes there is mere loss of appetite, or a capricious appetite with uneasiness after eating. 3. The attack commences with a sudden and most severe pain in the abdomen, generally soon after a meal. In irritant poisoning the pain usually comes on gradually, and slowly increases in severity. 4. Vomiting, if it exist at all, is commonly slight, and is chiefly confined to what is swallowed. There is no purging: the bowels are generally constipated. In irritant poisoning the vomiting is usually severe, and purging seldom absent. 5. The person dies commonly in from eighteen to thirty six hours; this is also the average period of death in the most common form of irritant poisoning, *i. e.* by arsenic; but in no case yet recorded has arsenic caused perforation of the stomach within twenty-four hours; and it appears probable that a considerable time must elapse before such an effect could be produced by this or any irritant. 6. In perforation from disease, the symptoms and death are clearly referable to peritonitis. 7. In the perforation from disease the aperture is commonly of an oval or rounded form, about half an inch in diameter, situated in or near the lesser curvature of the stomach, and

the edges are smooth. The outer margin of the aperture is often blackened, and the aperture itself is funnel-shaped from within outwards, *i. e.* the mucous coat is the most removed, and the outer or peritoneal coat, the least. The coats of the stomach, round the edge of the aperture, are usually thickened for some distance; and when cut they have almost a cartilaginous hardness. These characters of the aperture will not alone indicate whether it is the result of poisoning or disease; but the absence of poison from the stomach, with the want of other characteristic marks of irritant poisoning, would enable us to say that disease was the cause. Besides, the history of the case during life would materially assist us in our judgment. The great risk in all these cases is, that the effects of disease may be mistaken for those of poisoning; for we are not likely to mistake a perforation caused by irritant poison for the result of disease. Notwithstanding the well-marked differences above described, it is common to meet with cases of imputed poisoning, where death has really occurred from peritonitis following perforation. I have been required to examine several cases of this kind; one of them will be found elsewhere recorded. ("Guy's Hosp. Reports," Oct. 1850, page 226.) In another the body was exhumed after several months' burial, and the stomach was found perforated from disease in the usual situation. [Intestinal perforation sometimes occurs from sudden strain or effort or external violence.—H.]

Spontaneous or Gelatinized Perforation.—The stomach is occasionally subject to a spontaneous change, by which its coats are softened, and give way generally at the cardiac or greater end. As the effusion of the contents of the organ in such a case never gives rise to peritoneal inflammation, and no symptoms occur prior to death to indicate the existence of so extensive a destruction of parts, it is presumed to be a change in the dead body, and the coats of the stomach are supposed to undergo a process of solution or digestion. It is commonly attributed to the solvent action of the gastric juice, the spleen, diaphragm, and other viscera being sometimes softened. My colleague, Dr. Wilks, who has for many years conducted the inspections at Guy's Hospital, informs me that this post-mortem or cadaveric perforation of the stomach is so rare a condition, that it is not met with once in five hundred cases. In the last two cases in which it was observed, one patient had died from albuminuria and the other from head-affection; but in neither of these could there be found any peculiarities regarding their food, the time of the last meal, or the state of the bodies to account for the spontaneous destruction of the coats of the stomach. (For remarks on this subject by Dr. Budd, see "Med. Gaz." vol. 39, p. 895.) In January, 1845, I met with an instance of this perforation in a child between two and three years of age. It was seized with convulsions, became insensible, and died twenty-three hours afterwards. After death, the greater end of the stomach was found destroyed to the extent of three inches; and the edges were softened and blackened. There was no food in the stomach, and nothing had passed into the organ for thirty-two hours before death! It was therefore impossible to ascribe death to

the perforation, or the perforation to poison. (For a full account of this case, see "Med. Gaz." vol. 36, p. 32.) An inspection of the body, with a general history of the case, will commonly suffice to remove any doubt in forming an opinion whether the extensive destruction so commonly met with, has or has not arisen from poison. Thus, in a cadaveric perforation, the aperture is generally situated in that part of the stomach which lies to the left of the cardia; it is very large, of an irregular form, and ragged and pulpy at the edges, which have the appearance of being scraped. The mucous membrane of the stomach is not found inflamed. There is occasionally slight redness, with dark brown or almost black lines (striæ) in and near the dissolved coats, which have an acid reaction. It can only be confounded with perforation by the action of corrosives; but the well-marked symptoms during life, and the detection of the poison after death, together with the changes in the throat and gullet, will at once indicate the perforation produced by corrosive poison.

[It is vitally important that the post-mortem examiner should be qualified by practical training and experience, as well as judgment, to understand fully and distinctly the appearances referred to in the foregoing chapter. We fear, however, that the responsibility is too often assumed in this country by practitioners who have no right or reason to pretend to the indispensable qualifications, and whose ignorance and indiscretion might easily be exposed by a well directed cross-examination. The case of John Hendrickson, Jr., convicted, on altogether insufficient medical testimony, of poisoning his wife with aconite, affords a lamentable instance of this kind of perversion of medico-legal investigation. (See "Am. Journ. Med. Sci.," October, 1855, p. 447, for an able and justly severe review of the medical evidence in this trial by Dr. C. Lee.) But it is not only in the observation of the anatomical appearances, even when fully competent to recognize their true characters, that we must exercise the greatest caution. The evidence afforded by the sight and smell of matters in the alimentary canal or other portions of the body, although sometimes very significant, should always be subjected to the closest scrutiny. Odor and color are proverbially uncertain; and although the recognition of peculiarities of form is less liable to error, yet when these are so minute as to require the employment of the microscope to determine them, the faculty of discriminating is at present restricted to an extremely limited circle of observers. In the hands of a judicious and genuine expert in this mode of exploration, the microscope doubtless may be, as it already has been, resorted to with the happiest effect in corroboration of other more appreciable signs; still our inclination is to look with particular reserve upon all results derived from such a source alone. We fully agree nevertheless with Dr. M. Stillé in his indorsement of the views of Dr. Frazer, that the value of the microscope in identifying the presence of some vegetable poisons by their botanical characters has not received the attention which it deserves. (Wharton and Stillé, "Med. Jurisp.," 2d ed. p. 474.) Dr. Frazer, in his interesting paper on the subject, gives some very valuable hints, and concludes with detailed instructions,

which, while they must prove in the highest degree useful to the accomplished microscopist, at the same time demonstrate the absolute necessity of a special training on the part of any one who may desire to avail himself of such difficult tests.

"In such cases I would propose," says Dr. Frazer, "that, aided by the history of symptoms, an aid of which we always avail ourselves in other forms of poisoning, the microscope be employed in their investigation; and the most certain way, I believe, to accomplish this result, especially for those not very intimately acquainted with the peculiar differential characters of the plants, is to compare whatever vegetable fragments may be ejected by vomiting during life, or found in the body after death, with some recent specimens of those vegetables which are most suspected to have been the cause of the accident. I have satisfied myself in this manner that the *leaves* especially of aconite, henbane, foxglove, belladonna, and several other of our indigenous poisonous plants, can be easily recognized, and that they present distinctive characters adequate to establish ample ground for their discrimination.

"The point in such an investigation, which we require to determine in the first instance, is identically similar to the first step in deciding on the nature of a botanical specimen; if the specimen consists altogether of cellular tissue, it is to be classed as one of the 'cellulares,' and possibly may prove to be some of the poisonous fungi; should it, however, yield us distinct evidence of vascular tissue, thus demonstrating its more exalted place in the botanist's systematic arrangements, in that case we will have as our next duty, supposing it is a fragment of leaf which we are examining, to decide on the nature of the venation, which at once points out whether it constituted a portion of an exogenous or of an endogenous plant, the latter having the well-known parallel venation, and the former presenting an equalled distinctive reticulated arrangement. Having advanced so far, we then have four other points, at least, for aiding our further identification of its source.

"1st. The presence or absence of hairs, their relative abundance on the upper or under surface of the leaf, and their shape, composition, and arrangement.

"2d. The appearance of the epiderm on the upper surface of the leaf, the form of the cells of which it is composed, the existence or non-existence of stomata, and if they are present, their shape, size, and disposition in the epiderm.

"3d. Similar observations on the epiderm of the under surface of the leaf.

"4th. The disposition of the parenchyma of the leaf, and the development of various crystalline matter (raphides) in this tissue, and their form when they exist.

"An agreement in these four points, with corresponding appearances in a recent specimen, would, I conceive, afford more than an equivalent to the degree of moral certainty which is now derived from a chemical analysis of a mineral poison, and I can readily understand, with the scientific aids now at our disposal, that just as the

chemist is able to place securely in a sealed tube, and exhibit before the court sublimates of arsenic and mercury as undoubted evidence of his analytic skill, so the microscopic observer might produce, to corroborate his testimony, accurate drawings of the fragments of a poisonous plant, printed by solar light, as photographs, or more clearly obtained with the aid of a pencil or camera." (See "Edinb. Monthly Journ. of Med.," April, 1855, from "Dublin Hosp. Gaz.") —H.]

IRRITANT POISONS.

CHAPTER VII.

SULPHURIC ACID OR OIL OF VITRIOL.—NITRIC ACID OR AQUA FORTIS.—HYDROCHLORIC ACID.—SYMPTOMS.—APPEARANCES AND ANALYSIS.

Sulphuric Acid, or Oil of Vitriol.

Symptoms.—When this poison is swallowed in a concentrated form, the symptoms produced come on either *immediately*, or during the act of swallowing. There is violent burning pain, extending through the throat and gullet to the stomach, and the pain is often so severe that the body is bent. There is an escape of gaseous and frothy matter, followed by retching and vomiting, the latter accompanied by the discharge of shreds of tough mucus and of a liquid of a dark coffee-ground color, mixed with blood. The mouth is excoriated, the lining membrane and surface of the tongue white, or resembling soaked parchment; in one instance the appearance of the mouth was as if it had been smeared with white paint. After a time, the membrane acquires a gray or brownish color; the mouth is filled with a thick viscid substance consisting of saliva, mucus, and the corroded membrane: this renders speaking and swallowing difficult. If the poison has been administered by a spoon, or the phial containing it has been passed to the back of the throat, the mouth may escape the chemical action of the acid. The medical witness must bear this circumstance in mind, when he is called to examine an infant suspected to have been poisoned by sulphuric acid. Around the lips and on the neck may be found spots of a brown color from the spilling of the acid and its action on the skin. There is great difficulty of breathing, owing to the swelling and excoriation of the throat and larynx, and the countenance has from this cause, a bluish or livid appearance; the least motion of the abdominal muscles is attended with increase of pain. The stomach is so irritable, that whatever is swallowed is immediately ejected, and the vomiting is commonly violent and incessant. The matters *first* vomited generally contain the poison: they are acid, and if they fall on a limestone pavement there is effervescence; if on colored articles of dress, the color is sometimes altered to a red or yellow, or it is entirely discharged and the texture of the stuff destroyed; on a black cloth dress, the spots produced by the concentrated acid are reddish-brown, and remain moist

for a considerable time. After a time there is exhaustion, accompanied by great weakness; the pulse becomes quick, small, and feeble, the skin cold, mottled, and covered with a clammy sweat. There is generally great thirst, with obstinate constipation of the bowels; should any evacuations take place, they are commonly either of a dark brown or leaden color, in some instances almost black, arising from an admixture of altered blood. There are sometimes convulsive motions of the muscles, especially those of the face and lips. The countenance, if not livid from obstructed respiration, is pale, expressive of great anxiety and intense suffering. The intellectual faculties are quite clear, and death usually takes place very suddenly, in from eighteen to twenty-four hours after the poison has been taken. *Sulphate of Indigo* produces similar symptoms. The vomited matters are however bluish black.

Appearances after Death.—The appearances met with in the body of a person who has died from the effects of this acid vary, according to whether death has taken place rapidly or slowly. Supposing the case to have proved rapidly fatal, the membrane lining the mouth may be found white, softened, and corroded. The mucous membrane of the throat and gullet is commonly found corroded, having a brown-black, or ash-gray color, and blood is effused in patches beneath it. The corroded membrane of the gullet is occasionally disposed in longitudinal folds, portions of it being partly detached. The stomach, if not perforated, is collapsed and contracted. On laying it open, the contents are commonly found of a dark brown or black color and of a tarry consistency, being formed in great part of mucus and altered blood. The contents may or may not be acid, according to the time the patient has survived, and the treatment which has been adopted. On removing them, the stomach may be seen traversed by black lines, or the whole of the mucous membrane may be stained black or of a dark brown color. On forcibly stretching the coats, the red color indicative of inflammation may be sometimes seen in the parts beneath, or surrounding the blackened portions. When the stomach is perforated, the coats are softened, and the edge of the aperture is commonly black and irregular. In removing the stomach, the opening is liable to be made larger by the mere weight of the organ.

Fatal Dose.—The dangerous effects of sulphuric acid appear to arise rather from its degree of concentration, than from the absolute quantity taken. The quantity actually required to prove fatal, must depend on many circumstances. If the stomach is full when the poison is swallowed, the action of the acid may be spent on the food and not on the stomach; and a larger quantity might then be taken than would suffice to destroy life if the organ were empty. The smallest quantity which is described as having proved fatal was in the following case: Half a teaspoonful of concentrated sulphuric acid was given to a child about a year old by mistake for castor oil. The usual symptoms came on, with great disturbance of breathing; and the child died in twenty-four hours. The quantity here taken could not have exceeded *forty drops*. ("Med. Gaz.," vol. 29, p. 147.)

It is, however, doubtful whether this small quantity would have proved fatal to an adult. The smallest fatal dose which Dr. Christison states he has found recorded, is *one drachm;* it was taken in mistake by a young man, and killed him in seven days. (Op. cit., 162.) Even when diluted, the acid will destroy life rapidly. A man swallowed, on an empty stomach, six drachms of the strongest acid diluted with eighteen drachms of water. He suffered from the usual symptoms, and died in two hours and a half. ("Med. Times and Gaz." 1863, vol. 1, p. 183.)

The average period at which death takes place in cases of acute poisoning by sulphuric acid, is from eighteen to twenty-four hours. The shortest case recorded, occurred to M. Rapp. A man, æt. 50, swallowed three ounces and a half of concentrated sulphuric acid; he died in *three-quarters of an hour.* ("Gazette Médicale," Dec. 28, 1850.) On the other hand, there are numerous instances reported in which the poison proved fatal from secondary causes, at periods varying from one week to several months.

Chemical Analysis.—If the acid is in a pure state and *concentrated*, it possesses these properties: 1. Wood, sugar, or other organic matter plunged into it, is speedily carbonized or charred, either with or without the application of heat. 2. When boiled with wood, copper-cuttings, or mercury, it evolves fumes of sulphurous acid; this is immediately known by the odor, as well as by the acid vapor first rendering blue, and then bleaching, starch-paper dipped in a solution of iodic acid. 3. When mixed with an equal bulk of water, great heat is evolved—nearly 200° F., in a cold vessel.

Sulphuric acid when *diluted* does not carbonize organic substances. One test only is required for its detection, namely, a solution of a salt of baryta—either the *nitrate of baryta*, or the *chloride of barium.* Having ascertained by test-paper that the suspected liquid is acid, we add to a portion of it a few drops of nitric acid, and then a solution of nitrate of baryta. If sulphuric acid is present, a dense white precipitate of sulphate of baryta will fall down; this is insoluble in all acids and alkalies. If the precipitate is collected, dried, and heated to redness in a small platinum crucible, or in a folded piece of platinum foil, with five or six parts of charcoal powder, it will, if a sulphate, be converted into sulphide of barium. To prove this, we add to the calcined residue, hydrochloric acid, at the same time suspending over it a slip of filtering paper moistened with a solution of acetate of lead. If the precipitate obtained is a sulphate, the gas evolved will be sulphuretted hydrogen, known by its odor, and by its turning a salt of lead of a brown color. The cyanide or ferrocyanide of potassium may be used as a reducing agent in place of charcoal, in a proportion about equal to that of the sulphate of baryta. The experiment may then be performed in a reduction-tube in the flame of a spirit-lamp. On breaking the glass and laying the incinerated residue on paper or card wetted with a salt of lead, a brown stain indicative of sulphide of lead is produced.

In liquids containing organic matter.—If sulphuric acid is mixed with such liquids as porter, coffee, or tea, the process for its detection

is substantially the same, the liquid being first rendered clear by filtration. The precipitated sulphate of baryta, if mixed with organic matter, may be purified by boiling it in strong nitric acid; but this is not commonly necessary, as the reduction of the dried precipitate may be equally well performed with the impure, as with the pure sulphate. Some liquids, such as vinegar, porter, and most wines, generally contain sulphuric acid or a sulphate, but the acid is in small proportion; therefore, if there is an abundant precipitate, there can be no doubt, *cæteris paribus*, that free sulphuric acid has been added to them. Should the liquid be thick and viscid, like gruel, it may be diluted with water, and then boiled with the addition of a little acetic acid. For the action of the barytic test, it is not necessary that the liquid should be absolutely clear, provided it is not so thick as to interfere mechanically with the precipitation of the sulphate of baryta. So far with regard to articles administered, or of which the administration has been attempted. This process may be applied to the examination of matters *vomited* and of the *contents of the stomach*, care being taken to separate the insoluble parts by filtration, before adding the test. The coats of the stomach should be cut up and then boiled in distilled water. Sulphuric acid may be detected on *articles of clothing* by a similar process. The concentrated acid produces brown stains on black cloth—the spots remain damp and the fibre of the stuff is gradually softened and corroded. The stained portion of cloth should be boiled in water and the solution filtered and tested with a salt of barium. If any free acid is present, the stained stuff and the solution obtained from it, will redden litmus paper.

Nitric Acid. Aqua Fortis.

Symptoms.—When nitric acid is taken in a concentrated state, the symptoms bear a close resemblance to those produced by sulphuric acid. They come on *immediately*, and the swallowing of the acid is accompanied by intense burning pain in the throat and gullet extending downwards to the stomach: there are gaseous eructations, from the chemical action of the poison, swelling of the abdomen, violent vomiting of liquid or solid matters, mixed with altered blood of a dark brown color, and shreds of yellowish-colored mucus, having a strong acid reaction. The abdomen is generally exquisitely tender: but in one well-marked case of poisoning by the acid, the pain was chiefly confined to the throat: probably the poison had not reached the stomach. The mucous membrane of the mouth is commonly soft and white, after a time becoming yellow, or even brown; the teeth are also white, and the enamel is partially destroyed by the chemical action of the acid. There is great difficulty of speaking and swallowing, the mouth being filled with viscid mucus: the power of swallowing is, indeed, sometimes entirely lost. On opening the mouth, the tongue may be found swollen, and of a citron color; the tonsils are also swollen and enlarged; the teeth are yellow and corroded. As the symptoms progress, the pulse becomes small,

frequent, and irregular—the surface of the body extremely cold, and there are frequent rigors (shivering). The swallowing of liquids increases the severity of the pain and occasions vomiting. There is obstinate constipation. Death takes place in from eighteen to twenty-four hours, and is sometimes preceded by a kind of stupor, from which the patient is easily roused. The intellectual faculties commonly remain clear until the last.

The *vapor* of this acid is destructive to life. In March, 1854, *Mr. Haywood*, a chemist of Sheffield, lost his life under the following circumstances: He was pouring a mixture of nitric and sulphuric acids from a carboy containing about sixty pounds, when by some accident the vessel was broken. For a few minutes he inhaled the fumes of the mixed acids, but it does not appear that any of the liquid fell over him. Three hours after the accident, he was sitting up and appeared to be in moderately good health. He was then seen by a medical man, and complained merely of some cuts about his hands. He coughed violently. In three hours more there was difficulty of breathing, with increase of the cough. There was a sense of tightness at the lower part of the throat, and the pulse was hard. At times he said he could scarcely breathe. He died eleven hours after the accident. On inspection, there was congestion of the windpipe and bronchial tubes, with effusion of blood in the latter. The heart was flaccid, and contained but little blood; and the lining membrane of the heart and aorta was inflamed. The blood gave a slightly acid reaction with test paper. The windpipe was not examined. It is very probable the seat of mischief was in this organ, and that the deceased died from inflammatory effusion and enlargement of the parts about the opening of the windpipe. ("Lancet," April 15, 1854, p. 430.) A similar accident occurred to *Mr. Stewart* and one of the janitors of an educational institution in Edinburgh in March, 1863. They both died from the effects of the acid vapor.

Appearances after death.—Supposing death to have taken place rapidly from the liquid acid, the following appearances may be met with. The skin of the mouth and lips will present various shades of color, from an orange yellow to a brown. Yellow spots produced by the spilling of the acid may be found about the hands and neck. The membrane lining the mouth is sometimes white, at others of a citron color; the teeth are white, but present sometimes a yellowish color. The throat and windpipe are much inflamed. The lining membrane of the gullet is softened, and of a yellow or brown color, easily detached, often in long shreds. The windpipe is more vascular than usual, and the lungs are congested. The most strongly marked changes are, however, seen in the stomach. When not perforated, this organ may be found distended with gas, its mucous membrane partially inflamed and covered by patches of a yellow, brown, or green color, or it may be even black. Its coats may be so much softened, as to break down under the slightest pressure. In the duodenum similar changes are found; but in some cases the small intestines have presented no other appearance than that of slight redness. It might be supposed that the stomach would be in general

perforated by this corrosive liquid; but perforation has not been often observed. In a case which proved fatal after the long period of six months, there was, at the intestinal end of the stomach, a distinct cicatrix with puckering and hardening of the surrounding mucous membrane, causing a slight contraction of the intestinal orifice. The only other appearance consisted in some dark longitudinal lines on the posterior surface of the lining membrane of the gullet. This had probably been caused by the acid. ("Lancet," Nov. 24, 1860, p. 510.)

The *smallest* quantity of this acid which I find reported to have destroyed life, is about *two drachms*. It was in the case of a boy, aged thirteen: he died in thirty-six hours. Death commonly takes place within twenty-four hours. Sobernheim relates a case of poisoning by nitric acid, which proved fatal in *one hour and three quarters*. (Op. cit., 402.) This I believe to be the most rapidly fatal instance on record, where the acid acted as a poison. The usual well-marked effects were found in the gullet, stomach, and small intestines. In infants, life may be destroyed by this poison in a few minutes, should it happen to affect the larynx. The longest case is, perhaps, that recorded by Tartra, where a woman died from exhaustion, produced by the secondary effects of the acid, *eight months* after having swallowed it.

Chemical Analysis. In the simple state.—This acid may be met with either concentrated or diluted. The *concentrated acid* varies in color from a deep orange red to a light straw yellow. It may be recognized, 1. By evolving acid fumes when exposed to the air or when heated. 2. By its staining organic matter yellow or brown, the color being heightened and turned to a reddish tint by contact with caustic alkalies. 3. When mixed with a few copper cuttings, it is rapidly decomposed, a deep red acid vapor is given off, and a greenish colored solution of nitrate of copper is formed. Tin or mercury may be substituted for copper in this experiment. 4. The addition of gold-leaf and a few drops of hydrochloric acid: if nitric acid is present, the gold will be dissolved on warming the mixture. Common aqua fortis (nitric acid) sometimes contains as impurity, a sufficiency of hydrochloric acid to dissolve gold-leaf by heat. *In the diluted state.*—This acid is not precipitated like the sulphuric, by any common reagent, since all its alkaline combinations are soluble in water. 1. The liquid has a highly acid reaction, and (if not too diluted) on boiling it with some copper turnings, red fumes of nitrous acid vapor are given off, the liquid acquiring a blue color at the same time. 2. A streak made on white paper with the diluted acid does not carbonize it when heated; but a scarcely visible yellow stain is left. 3. The liquid is neither precipitated by nitrate of baryta nor by nitrate of silver. These two last experiments give merely negative results: they serve to show that the sulphuric and hydrochloric acids are absent.

In order to detect nitric acid when mixed with water or other liquids the liquid should be carefully neutralized by potash, and then evaporated slowly to obtain crystals. If the liquid contain

nitric acid, these crystals will possess the following characters: 1. They appear in the form of lengthened fluted prisms, which neither effloresce nor deliquesce on exposure. One drop of the solution, evaporated spontaneously on glass, will suffice to yield distinct and well-formed prismatic crystals. This character distinguishes the *nitrate* of potash from a large number of salts. 2. When moistened with strong sulphuric acid, the powdered crystals slowly evolve a colorless acid vapor. By this test, the nitrate is known from every other deflagrating salt. 3. A portion of the powdered crystals should be placed in a small tube and mixed with their bulk of fine *copper* filings. The mass is then to be moistened with water, and a few drops of strong *sulphuric acid* added. Either with or without the application of a gentle heat, a decomposition immediately ensues, by which red fumes of *nitrous acid* are evolved, recognizable by their color, odor, and acid reaction. In operating on a small quantity of nitrate free from chloride, the crystals may be placed in a watch-glass and mixed with one or two drops of concentrated sulphuric acid and a few copper filings. Invert over this another watch-glass containing a small slip of blue litmus-paper wetted, and a slip of starch-paper moistened with a solution of iodide of potassium. After a longer or shorter interval the litmus will be reddened, and the starch-paper will assume a blue-black color. If the nitrate should be mixed with much chloride, then the power of dissolving leaf gold on boiling the dry salt with strong hydrochloric acid, furnishes the best means of detection. 4. We add to the crystals a small portion of gold-leaf and hydrochloric acid; then boil for a few minutes. The gold will either wholly or entirely disappear if nitric acid or a nitrate is present. Its partial solution will be indicated by a dark purple or brown color on the addition of chloride of tin to the liquid after boiling.

In liquids containing organic matter.—Nitric acid may be administered in such liquids as tea, vinegar, or porter. In this case, besides the acid reaction, there will be a peculiar smell produced by the strong acid, when mixed with substances of an organic nature. The application of the usual tests may be here counteracted; thus, unless the quantity of nitric acid in the liquid is considerable, the orange-red fumes of nitrous acid are not evolved on boiling it with copper cuttings. If the liquid is viscid, this viscidity must be destroyed by dilution with water; and in all cases, if any solid or insoluble substances are present as in the *matters vomited* or *contents of the stomach*, it must be filtered, in order to separate the insoluble portions. If we succeed in procuring a clear acid liquor, the color may be disregarded. After warming the acid, we should carefully neutralize it with a weak solution of carbonate of potash; it may then be concentrated by evaporation. Paper dipped into this liquid and dried, burns with deflagration, and a few drops on a glass slide will yield crystals possessing those properties which have been described as characteristic of the compound of potash with nitric acid. The crystals so obtained may be colored and impure; but this does not interfere with the action of the most important test for nitric acid, namely, the mixture of copper filings and sulphuric acid. The crystals may, however,

if necessary, be purified by washing them with ether or alcohol. These liquids do not dissolve the nitrate of potash, but will often serve to remove from it the organic matters by which it is colored. When either the nitric acid, or the nitrate into which it has been converted, is mixed with common salt, the copper test cannot be employed. In such a case the gold test will furnish the best evidence. Hydrochloric acid with a small portion of gold-leaf may be added to the dried residue, and the mixture boiled. If nitric acid or a nitrate is present, even in minute proportion, some portion of the gold will be dissolved, a fact demonstrable by the addition of chloride of tin.

Nitric acid may be detected in *stains on clothing*, if recent, by simply boiling the stained cloth in water, with or without the addition of a small quantity of carbonate of potash. The carbonate must be used when an *acid* liquid is not obtained by boiling the stained cloth in distilled water.

Hydrochloric Acid. Muriatic Acid.

This acid, which is also called Muriatic acid, and is popularly known under the name of Spirit of salt, is but seldom taken as a poison. In the few cases which have been hitherto observed, the *symptoms* and *appearances* have been similar to those caused by nitric acid. The following case will show the nature of the symptoms. A woman swallowed *half an ounce* of concentrated hydrochloric acid, and in three quarters of an hour, the prominent symptoms were burning pain in the throat and stomach, feeble pulse, cold and clammy skin, retching and vomiting of a brown matter streaked with blood and containing shreds of membrane. There was great exhaustion. The throat became swollen, the patient lost the power of swallowing, and died in eighteen hours. She retained her senses until the last. The *appearances* in the body were as follows: the mucous membrane of the mouth and throat was white, softened, and destroyed in many places by the corrosive action of the acid. The membrane of the gullet was red and inflamed. The back part of the stomach near the pylorus was black, stripped of its mucous membrane (which was generally softened), and marked with black lines. It was not perforated. ("Lancet," July 16, 1859, p. 59.) For a more detailed account of poisoning by this acid, see "On Poisons," second edition, p. 289.

Chemical Analysis.—In a *concentrated* state, hydrochloric acid evolves copious fumes. The pure acid is nearly colorless; the commercial acid is of a lemon yellow color, and frequently contains iron, arsenic, common salt, and other impurities. When boiled with a small quantity of peroxide of manganese, chlorine is evolved. It does not dissolve gold-leaf until a few drops of nitric acid have been added to it, and the mixture heated. In the *diluted* state, these properties are lost. It may then be recognized by the dense white precipitate which it gives when a solution of nitrate of silver is added to it. This precipitate is insoluble in nitric acid; it acquires a purple and

black color if exposed to light, and when heated, it melts without decomposition, forming a yellowish-colored substance on cooling.

Hydrochloric acid, as well as alkaline chlorides, are natural constituents of the fluids of the alimentary canal. The presence of local chemical changes in the throat and stomach, would show whether the acid had been taken as a poison. If the acid is found only in small quantity, no inference of poisoning can be drawn unless there are distinct marks of its chemical action upon the throat and stomach. It darkens the blood like sulphuric acid, although it has not the same degree of carbonating action on organic matter.

CHAPTER VIII.

POISONING BY VEGETABLE ACIDS.—OXALIC ACID.—SYMPTOMS AND APPEARANCES.—CHEMICAL ANALYSIS.—ACID OXALATE OF POTASH OR SALT OF SORREL.—TARTARIC AND ACETIC ACIDS.—[AROMATIC VINEGAR.]

Oxalic Acid.

Symptoms.—If this poison is taken in a large dose, *i. e.* from half an ounce to an ounce of the crystals dissolved in water, a hot burning acid taste is experienced during the act of swallowing it. This is accompanied by a similar sensation extending through the gullet to the stomach. There is sometimes a sense of constriction or suffocation; the countenance is livid and the surface of the skin soon becomes cold and clammy. Vomiting occurs either immediately or within a few minutes. Should the poison be diluted, there is merely a sensation of strong acidity, and vomiting may not occur until after a quarter of an hour or twenty minutes. In some cases there has been little or no vomiting; while in others, this symptom has been incessant until death. In one case, in which an ounce of the acid was swallowed, the vomiting with pain in the stomach continued until the fifth day, when the man died suddenly ("Lancet," Nov. 24, 1860, p. 509), and in another in which the poison was much diluted, vomiting did not occur for seven hours. ("Christison," 221.) The vomited matters are highly acid, and have a greenish-brown or almost black color; they consist chiefly of mucus and altered blood. The patient complains of great pain and tenderness in the abdomen, with a burning sensation in the stomach. There are cold clammy perspirations and convulsions. There is in general an entire prostration of strength, so that if the person is in the erect position, he falls; there is likewise unconsciousness of surrounding objects, and a kind of stupor from which, however, the patient may be without difficulty roused. Owing to the severity of the pain, the legs are sometimes drawn up towards the abdomen, or the patient rolls about on the floor or bed. The pulse is small, irregular, and scarcely perceptible; the skin cold

and clammy; and there is a sensation of numbness in the limbs with spasmodic breathing. The inspirations are deep, and a long interval elapses between them. Should the patient survive the first effects of the poison, the following symptoms may appear: soreness of the mouth, constriction and burning pain in the throat with pain in swallowing, tenderness in the abdomen, and irritability of the stomach, so that there is frequent vomiting, accompanied by purging. The tongue is swollen, and there is great thirst.

Appearances after Death.—The mucous membrane of the tongue, mouth, throat, and gullet, is softened and commonly white, as if bleached, but it is sometimes coated with a portion of the brown mucous matter discharged from the stomach. This latter organ contains a dark brown mucous liquid, often acid, and having almost a gelatinous consistency. On removing the contents, the mucous membrane will be seen pale and softened, without always presenting marks of inflammation or abrasion, if death has taken place rapidly. This membrane is white, soft, and brittle, easily raised by the scalpel, and presents the appearance which we might suppose it would assume after having been for some time boiled in water. The small vessels are seen ramifying over the surface, filled with dark-colored blood, apparently solidified within them. The lining membrane of the gullet presents the same characters. It is pale, and appears as if it had been boiled in water, or digested in alcohol; it has been found strongly raised in longitudinal folds, interrupted by patches where the membrane has become abraded. In a case which was fatal in eight hours, the tongue was covered with white specks; the gullet was not inflamed, but the stomach was extensively destroyed, and had a gangrenous appearance. Portions of the mucous membrane were detached, exposing the muscular coat. With respect to the intestines, the upper portion may be found inflamed; but, unless the case is protracted, the appearances in the bowels are not strongly marked.

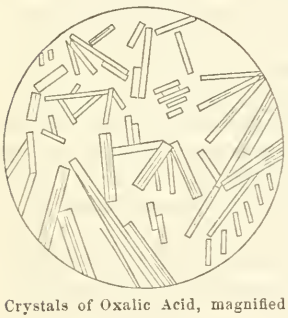
It is worthy of observation that the glairy contents of the stomach do not always indicate strong acidity until after they have been boiled in water. Oxalic acid does not appear to have a strongly corrosive action on the stomach, like that possessed by the mineral acids. It is therefore rare to hear of the coats of the organ being perforated by it. The acid, when in a concentrated state, renders the mucous coat soft and brittle, and perforation of the coats may occur either during life or after death as a result of its chemical action. Dr. Wood has recorded the case of a female, æt. 27, found dead, whose death had been obviously caused by oxalic acid, but the quantity taken, and the duration of the case, were unknown. The stomach presented, at its upper and fore part near the cardiac opening, an irregular aperture of a size to admit the point of the finger.

The smallest quantity of this poison which has been known to destroy life is *one drachm* (sixty grains). The boy, æt. 16, took the poison in a solid form, and was found in about an hour insensible, pulseless, and his jaws spasmodically closed. He had vomited some bloody matter; his tongue and lips were unusually pale, but there

was no excoriation. He died in eight hours. ("Lancet," Dec. 1, 1855.) Two cases occurred at Guy's Hospital, in each of which half an ounce of oxalic acid had been swallowed. Active treatment was adopted, and both patients recovered. When the dose of oxalic acid is half an ounce and upwards, death commonly takes place within an hour; but there are numerous exceptions to this rapidity of action. Dr. Christison mentions an instance in which an ounce of oxalic acid killed a girl in thirty minutes; and another in which the same quantity destroyed life in *ten minutes;* but in a third case death did not occur until the fifth day. The late Dr. Ogilvy, of Coventry, has reported a case of poisoning by oxalic acid, in which it is probable that death took place within *three minutes* after the poison had been swallowed. The quantity of the acid taken could not be determined.

Chemical Analysis. In the simple state.—This acid may be met with, either as a solid, or in solution in water. *Solid oxalic acid:* It crystallizes in long slender prisms, which, when perfect, are four-sided. In this respect, it differs from other common acids, mineral and vegetable. The crystals are unchangeable in air; they are soluble in water and alcohol, forming strongly acid solutions. When heated on platinum foil they melt, and are entirely dissipated in vapor without combustion and without being carbonized. Heated in a close tube, they melt, and the vapor is condensed in a white crystalline sublimate in a cold part of the tube. There should be no residue whatever if the acid is pure; but the commercial acid generally leaves a slight residue of fixed impurity. By this effect of heat, oxalic acid is easily distinguished from those crystalline salts for which it has been sometimes fatally mistaken, namely, the sulphates of magnesia and zinc. These leave white residues in the form of anhydrous salts.

Fig. 1.



Crystals of Oxalic Acid, magnified 30 diameters.

Tests. 1. *Nitrate of silver.*—When added to a solution of oxalic acid, it produces an abundant white precipitate of oxalate of silver. A solution containing so small a quantity of oxalic acid as not to redden litmus-paper, is affected by this test; but when the quantity of poison is small, it would be always advisable to concentrate the liquid by evaporation before applying it. The *oxalate* of silver is identified by the following properties: 1. It is completely dissolved by cold nitric acid. If collected on a filter, thoroughly dried, and heated on thin platinum foil, it is entirely dissipated in a white vapor with a slight detonation. When the oxalate is in small quantity, this detonation may be observed in detached particles on burning the filter previously well dried. 2. *Sulphate of lime.*—A solution of oxalic acid is precipitated white by lime water and all the salts of lime. Lime water is itself objectionable as a test, because it is precipitated white by several other acids. The salt of lime, which, as

a test, is open to the least objection, is the *sulphate*. As this is not a very soluble salt, its solution must be added in rather large quantity to the suspected acid poisonous liquid previously concentrated. A white precipitate of oxalate of lime is slowly formed. This precipitate should possess the following properties: 1. It ought to be immediately dissolved by nitric or hydrochloric acid. 2. It ought not to be dissolved by the tartaric, acetic, or any vegetable acid.

In organic liquids.—The process is the same, whether it is applied to liquids in which the poison is administered, or to the *matters vomited*, or, lastly, to the *contents of the stomach*. Should the liquid be very acid, we must filter it to separate any insoluble matters; should it not be very acid, the whole may be boiled, if necessary, with distilled water filtered, and concentrated by evaporation. To the filtered liquid, acidulated with acetic acid, *acetate of lead* should be added until there is no further precipitation; and the white precipitate formed, collected, and washed. If any oxalic acid was present in the liquid, it would exist in this precipitate under the form of *oxalate* of lead. Diffuse the precipitate in water, and pass into the liquid, for about half an hour, a current of sulphuretted hydrogen gas, taking care that the gas comes in contact with every portion of the precipitate. Black sulphide of lead will be thrown down; and with it commonly the greater part of the organic matter mixed with the oxalate of lead. Filter, to separate the sulphide of lead; the filtered liquid may be clear and slightly acid. Concentrate by evaporation; the sulphuretted hydrogen dissolved in the liquid is thereby expelled, and oxalic acid may be ultimately obtained crystallized by slow evaporation in a watch-glass or on a glass-slide, for microscopical observation. If there was no oxalic acid in the precipitate, no crystals will be procured by evaporation. If crystals are obtained, they must be dissolved in water, and tested in the manner above directed. Should the organic liquid contain sulphuric acid or sulphates, these should be separated before precipitation by lead is resorted to. As oxalic acid is very soluble in alcohol, this liquid may be occasionally employed for separating it from the contents of the stomach and from many organic compounds. Crystals may be obtained from the alcoholic solution, and these may be purified and tested by the methods already described. In cases in which the acid is mixed with blood, mucous or farinaceous matters which do not admit readily of filtration, I have found the following method serviceable for the detection of the poison. The acid liquid should be placed in a tube open at one end and closed at the other by wet bladder. This should be immersed in a glass containing distilled water. After some hours the oxalic acid will traverse the bladder and may be found by the use of the appropriate test (nitrate of silver) in the watery liquid, free from the mucus and other matters associated with it in the stomach. The precipitate obtained with the nitrate of silver may be further tested in the manner above described.

Acid Oxalate of Potash, or Salt of Sorrel.

Symptoms and Effects.—The poisonous effects of this salt entirely depend on the oxalic acid which it contains. It is much used for the purpose of bleaching straw and removing ink-stains, and is sold for this purpose under the name of essential salt of lemons. Its poisonous properties are not generally known, or no doubt it would be frequently substituted for oxalic acid. Out of three cases of poisoning by this substance, two proved fatal, while in the other the patient recovered. In the case of recovery, a young lady, aged twenty, swallowed an ounce of the salt dissolved in warm water. She was not seen by any one for an hour and a half; she was then found on the floor, faint and exhausted, having previously vomited considerably. There was great depression, the skin cold and clammy, the pulse feeble, and there was a scalding sensation in the throat and stomach. There was also continued shivering. Proper medical treatment was adopted, and she recovered in two days, still suffering from debility and great irritation of the stomach. During the state of depression, it was remarked that the membranes of the eyes were much injected, and the pupils dilated. There was also great dimness of vision. ("Med. Gaz." vol. 27, p. 480.)

This salt destroys life almost as rapidly as oxalic acid itself; and in the symptoms which it produces, it closely resembles that poison. In one case, half an ounce killed an adult in so short a time as *eight minutes;* but probably the fatal effects were in this instance accelerated by the debilitated state of the person who took it. In another case, reported by M. Chevallier, death took place in ten minutes. ("Ann. d'Hyg." 1850, vol. 1, p. 162.) In some instances this poisonous substance has been supplied by mistake for cream of tartar, and has thus caused death.

Chemical Analysis.—It is not very soluble in cold water, but its solution may be readily mistaken for that of oxalic acid. The tests for oxalic acid may be applied for the detection of this salt.

Tartaric Acid.

Symptoms and Appearances.—Tartaric acid has not been considered to possess any poisonous properties; but one case has occurred, in which there was no doubt that it acted as an irritant, and destroyed life. The case referred to was the subject of a trial for manslaughter at the Central Criminal Court (*Reg.* v. *Watkins*), in January, 1845. The accused gave the deceased, a man aged twenty-four, by mistake, *one ounce* of tartaric acid instead of aperient salts. The deceased swallowed the whole dissolved in half a pint of warm water at a dose: he immediately exclaimed that he was poisoned; he complained of having a burning sensation in his throat and stomach, as though he had drunk oil of vitriol, and that he could compare it to nothing but being all on fire. Soda and magnesia were administered with diluent drinks. Vomiting set in, and continued until death, which took place nine days afterwards. On inspection, nearly the whole of

the alimentary canal was found highly inflamed. The accused admitted that he had made a mistake, and tartaric acid was found in the dregs of the cup. The jury acquitted the prisoner. Another case of poisoning by this acid, with a report of the results of analysis, has been published by M. Devergie. ("Ann. d'Hyg.," 1851, vol. ii. p. 432.) This case gave rise to a controversy between the late M. Orfila and M. Devergie, the points in dispute relating chiefly to the processes for the detection of the acid in the stomach and tissues. (See "Ann. d'Hyg.," 1852, vol. i. pp. 199, 382, and vol. ii. p. 230.)

Acetic Acid.

This acid has been generally excluded from the class of poisons. Common vinegar, which contains only five per cent. of acetic acid, has often been taken in large doses without injurious consequences. From the experiments performed by Orfila on dogs, and from one case which he reports as having occurred in the human subject, acetic acid, when concentrated, appears to exert an irritant action on the body. ("Annales d'Hygiène," 1831, vol. ii. p. 159; also "Toxicologie," vol. ii. p. 198.) This is not more than we might have expected, seeing that the concentrated acid is highly corrosive. In the case referred to, the deceased, a young female aged nineteen, was found dying on the highway. She suffered from convulsions—complained of pain in the stomach, and died in a very short time. On inspection, the stomach was found neither softened nor corroded, but its mucous membrane near the pylorus was almost black. The mucous glands were prominent, and the vessels were filled with black coagulated blood.

Vinegar, which may be regarded as an organic mixture containing but a very small proportion of acetic acid (five per cent.), may be examined by distilling a portion, and testing the distilled liquid for the acid. Vinegar, as it exists in commerce, always contains a small quantity of sulphuric acid, and occasionally traces of arsenic and lead. In general it is easily recognized by its odor. Pelletan observed in the case of a child that the abuse of vinegar led to a thinning of the mucous membrane of the stomach; and Landerer remarked that the milk of a wet-nurse who had been in the habit of taking large quantities of the Vinegar of Roses, became thin, very acid, and deficient in casein and oil. The infant which she was suckling gradually wasted and died, and the woman herself suffered severely. ("Heller's Archiv.," 1847, 2 H. S. 185.)

[Aromatic Vinegar, which is a stronger preparation (containing at least ninety per cent. of acetic acid), rendered still more irritating by the aromatic oils dissolved in it, may be unintentionally used in such a manner as to produce very serious, if not fatal injury. We have attended a lady whose husband, in his anxiety to restore her from a fainting fit, had poured a quantity of aromatic vinegar into her nostrils. The result of this accident was the corrosion and subsequent violent inflammation of the lining membrane of the nostrils

and of the posterior surface of the soft palate. The same amount of irritation, extending into either the larynx or œsophagus, would probably have destroyed her life.—H.]

CHAPTER IX.

POISONING BY ALKALIES AND ALKALINE SALTS.—POTASH, SODA, AND AMMONIA.—NITRATE AND SULPHATE OF POTASH.—CHLORIDE OF BARIUM.

POTASH AND SODA.

Symptoms.—The symptoms produced by potash and soda, when taken in large doses, are similar, so that one description will serve for both. The most common form in which these poisons are met with, is in the state of pearlash (carbonate of potash) and soap-lees (carbonate of soda). The person experiences, during the act of swallowing, an acrid caustic taste, owing to the alkaline liquid, if sufficiently concentrated, excoriating the mucous membrane. There is a persistent sensation of burning heat in the throat, extending down the gullet to the stomach. Vomiting is not always observed; but when it does occur, the vomited matters are sometimes mixed with blood of a dark brown color, and with detached portions or flakes of mucous membrane; this effect depending on the degree of causticity in the liquid swallowed. The surface is cold and clammy; there is purging, with severe pain in the abdomen, resembling colic. The pulse is quick and feeble. In the course of a short time, the lips, tongue, and throat become swollen, soft, and red. The most rapidly fatal case of poisoning by alkalies which I have found reported is that of a boy, who died in *three hours* after swallowing three ounces of a strong solution of carbonate of potash.

Appearances after Death.—In recent cases there are marks of the local action of the poison on the mucous membrane of the mouth, throat, and gullet. This membrane has been found softened, detached, and inflamed in patches of a deep chocolate color, sometimes almost black. A similar appearance has been met with in the mucous membrane of the larynx and windpipe. The stomach has had its mucous surface destroyed in patches, and there has been partial inflammation. In one instance, as a result of the action of soda, I found it puckered and blackened. The *quantity* of these alkaline poisons required to destroy life is unknown. The fatal effects depend rather on the degree of concentration of the liquid, than on the absolute quantity of alkali present.

Chemical Analysis.—When potash or soda or the carbonate of either alkali is contained in a poisonous proportion in any organic liquid—it will be observed that the liquid has not only a strong

alkaline reaction—but it is soapy to the feel, frothy when shaken, and has a peculiar odor. The alkali may be obtained in the state of carbonate or otherwise by simply evaporating the suspected liquid and incinerating the residue in a silver or porcelain vessel. The presence of potash or soda may be easily determined by the appropriate tests for these two alkalies. Potash gives a violet, and soda an intense yellow color to the smokeless flame of gas or spirit.

Ammonia. Spirit of Hartshorn.

Symptoms and Appearances.—The strong *solution* of ammonia produces symptoms similar to those described in speaking of potash, but as it is much more irritating it produces a choking sensation followed by intense heat and burning pain in the throat, gullet, and stomach.

Serious injury to the organs of respiration is one of the results of the action of this poison. A gentleman liable to attacks of fainting died in three days, after swallowing a quantity of a liquid administered to him by his son. This liquid, which was at the time believed to be sal volatile, was, in fact, a strong solution of ammonia. The deceased complained immediately of a sensation of choking and strangling in the act of vomiting. Symptoms of difficulty of breathing set in, with other signs of irritation in the throat and stomach. The mucous membrane of the mouth and throat was corroded and dissolved, and it was evident that the liquid had caused great local irritation. The difficulty of breathing was such as to threaten suffocation, and at one time it was thought that an operation must be resorted to. The state of the patient, however, precluded its performance, and he died on the third day. On *inspection*, the viscera presented strong marks of corrosion. The covering of the tongue was softened, and had peeled off; the lining membrane of the air-passages was softened and covered with layers of false membrane, the result of inflammation; and the larger bronchial tubes were completely obstructed by casts or cylinders of this membrane. The lining membrane of the gullet was softened, and at the lower part, near its junction with the stomach, the tube was completely dissolved and destroyed. There was an aperture in the stomach in its anterior wall, about one inch and a half in diameter; the edges were soft, ragged, and blackened, presenting an appearance of solution. The contents of the stomach had escaped. On the inside, the vessels were injected with dark-colored blood, and there were numerous small effusions of blood in various parts of the mucous membrane. The coats were thinned and softened at the seat of the aperture. The blackened and congested appearance of the lining membrane somewhat resembled that which is seen in poisoning by sulphuric or oxalic acid. The mucous matter on the coats of the stomach was feebly *acid*. No poison of any kind was found in the layer of mucus or in the coats. There was not in any part the slightest trace of ammonia, the poison which had caused the mischief. The deceased had lived three days; remedies had been used, and every trace of ammonia had disappeared. The immediate cause of death was an

obstruction of the air tubes, as a result of inflammation, caused by the local irritant action of the liquid; it was quite obvious that a quantity had entered the windpipe. The perforation of the stomach had probably taken place shortly before death, or there would have been marks of peritonitis. The injury to the stomach and gullet would have been sufficient to cause death, even supposing that the liquid had not penetrated into the lungs.

Carbonate of Ammonia.—The concentrated solution of this salt (sal volatile) is probably more active as a poison than is commonly supposed. A man, in a fit of passion, swallowed about five fluidrachms of a solution of sal volatile. In ten minutes, he was seized with stupor and insensibility; but upon the application of stimulant remedies he recovered. He suffered for some time afterwards, from severe irritation about the throat and gullet.

A female, æt. 19, while in a state of unconsciousness, was made to swallow a quantity of hartshorn. She felt a severe pain in the stomach immediately, and in about an hour afterwards she vomited some blood. This vomiting of blood continued for several days. These symptoms were followed by great irritability of the stomach, and the constant rejection of food. There was obstinate constipation of the bowels, with emaciation and loss of strength. She died in about three months from the time at which she had swallowed the alkaline poison. On inspection, the gullet was found healthy; the orifice, at its junction with the stomach, was slightly contracted. The intestinal opening (pylorus) was contracted to the size of a crowquill, and the coats were thickened. On the posterior wall of the stomach there was a dense cicatrix of the size of half a crown, and from this point fibrous bands ramified in various directions. The duodenum and other parts of the intestinal canal were healthy. ("Med. Times and Gazette," Nov. 26, 1853, p. 554.)

Chemical Analysis.—Ammonia is distinguished from potash and soda by its pungent odor and entire volatility. The *Carbonate of Ammonia* may be known from other salts by its alkaline reaction, its odor, and its volatility as a solid, and from pure ammonia by its effervescing on the addition of an acid.

Nitrate of Potash, Nitre, Saltpetre.

Symptoms and Appearances.—This well-known salt has on several occasions destroyed life, when taken in large doses; but there appears to be some uncertainty in its action both as to the symptoms and the fatal effects on the body. In December, 1863, a man swallowed an ounce of nitre, mixed with water, by mistake for Epsom salts, about nine o'clock in the morning. It produced vomiting with severe pain, but no purging. There was coldness of the surface and lividity of the face. Death took place in three hours. On *inspection* the mucous membrane of the stomach was found highly inflamed, especially towards the middle of the greater curvature, where, for several inches, it resembled scarlet cloth. The pylorus and duodenum were of a deep crimson color. The peritoneal surface was reddened, especially over

the stomach, the vessels having a vermilion red color, as if they had been injected. The heart and lungs were healthy, the blood was fluid and more florid than natural. The other organs presented no unusual appearance. No analysis was made of the contents of the stomach, but that the nitre was the cause of death no doubt could be entertained, and a verdict was returned accordingly at the coroner's inquest.

Analysis.—For the chemical properties and method of detecting this salt, see page 96.

Sulphate of Potash.

Symptoms and Appearances.—The question whether this should be regarded as an irritant poisonous salt or not, was much debated among members of the profession, in reference to a case which was tried at the Central Criminal Court in October, 1843. (The *Queen* v. *Haynes.*) The accused had given to the deceased, the night before her death, two ounces of sulphate of potash, dissolved in water; and it was alleged that a fortnight previously to this, she had taken in divided doses, as much as a quarter of a pound of the salt. The woman thought that she was pregnant, but this was disproved by an examination of the body; and it was charged that the prisoner had given her the salt with the intention of causing a miscarriage. After the last dose, she was seized with sickness, and died within a very short time. The stomach was found empty, but highly inflamed; and there was blood effused on the brain. One medical witness referred death to the action of the sulphate as an irritant poison; the other to apoplexy, as an indirect result of the violent vomiting caused by it. The prisoner was acquitted of the charge of murder, but subsequently found guilty of administering the substance with intent to procure abortion. Both of the witnesses admitted that, in small doses, the salt was innocent; but that in the dose of two ounces, it might produce dangerous effects. Several other fatal cases are recorded. (See "Ann. d'Hygiène," Avril, 1842.)

There is no doubt that the most simple purgative salts may, under certain circumstances, and when given in large doses, destroy life. A case is elsewhere related, in which sulphate of magnesia caused death, and gave rise to a criminal charge in this country. ("On Poisons," 2d ed. p. 4.) It is said that sulphate of potash has in some cases caused vomiting and other serious symptoms, from its containing as impurity sulphate of zinc. This, if present, would be easily discovered by the appropriate tests.

Sulphate of potash may be easily identified. It is in hard dry crystals, soluble in water, forming a neutral solution in which potash and sulphuric acid may be discovered by the appropriate tests.

Salts of Baryta.

Chloride of Barium. Symptoms.—A woman, æt. 23, took by mistake for Epsom salts less than a teaspoonful (100 grains) of the

chloride. This was at 12.30, 1st October, 1858. In half-an-hour there was a feeling of deadly sickness, with sharp burning pains in the stomach and bowels. Vomiting and purging set in violently, the purging being attended with straining. An hour and a half after she had taken the poison the following symptoms were observed by Mr. Walsh. Face pale and anxious, eyes deeply sunk, surface cold, heart's action feeble, pulse scarcely perceptible, tongue natural and warm, loss of muscular power, sensation and intelligence not affected, pupils natural. Fluids taken were instantly rejected with a ropy mucus. There was pain in the stomach, singing in the ears, twitching of the face, and twisting of the legs and arms. At 9 P. M. the symptoms had abated, but at 2 A. M. (*i. e.* in about fourteen hours) the purging had returned, and the symptoms were much worse. There was a loss of voluntary muscular power. The breathing was slow and labored, and indicated effusion in the bronchial tubes, but the woman was sensible. Soon after 3 A. M. she was convulsed, and these convulsions continued in paroxysms for two hours, when she died, seventeen hours after taking the poison. During the fits she had several watery evacuations, and consciousness was lost. There was no *post-mortem* examination. ("Lancet," 1859, vol. 1, p. 211.)

The *Carbonate of baryta* is said to have destroyed life in two cases, in each of which only one drachm was taken; but the following case, which occurred to Dr. Wilson, shows that this compound is not so poisonous as the chloride. A young woman swallowed half a teacupful of the powdered carbonate, mixed with water, at a time when she had been fasting twenty-four hours. There was no particular taste. In two hours she experienced dimness of sight, double vision, ringing in the ears, pain in the head, and throbbing in the temples, with a sensation of distension and weight at the pit of the stomach. There was also palpitation of the heart. After a time she complained of pain in the legs and knees, and cramps in the calves. She vomited twice a fluid like chalk and water. The skin was hot and dry, the pulse frequent, full, and hard. The symptoms gradually abated, and she recovered, although the pain in the head and stomach continued for a long time. ("Med. Gaz." xiv. 448.) The carbonate is used as a poison for rats and mice.

Analysis.—Chloride of barium crystallizes in plates: it is soluble in water. 1. The solution yields an insoluble white precipitate with sulphuric acid or an alkaline sulphate. This precipitate is nearly insoluble in nitric acid. 2. The powdered salt, burnt on platinum wire in a smokeless flame, imparts to it a greenish yellow color. 3. Chlorine may be detected by a solution of nitrate of silver.

Carbonate of baryta is a white insoluble powder. It is entirely dissolved with effervescence (carbonic acid) by diluted hydrochloric acid. On evaporation, it yields crystalline plates of the chloride of barium, which may be tested by the processes above mentioned.

CHAPTER X.

PHOSPHORUS.—SYMPTOMS AND APPEARANCES.—CHRONIC POISONING.—CHEMICAL ANALYSIS.

Symptoms.—Phosphorus acts as an irritant poison, but its operation is attended with some uncertainty, according to the state in which it is taken. The symptoms are frequently slow in appearing: it is only after some hours, and sometimes even one or two days, that signs of irritation with convulsions and spasms appear; but when these once come on, the case proceeds rapidly to a fatal termination. In the first instance the patient experiences a disagreeable taste resembling that of garlic, which is peculiar to this poison. An alliaceous or garlic odor may be perceived in the breath. There is an acrid burning sensation in the throat, with intense thirst, nausea, severe pain and heat with tenderness and a pricking sensation in the stomach, followed by distension of the abdomen and frequent vomiting. The vomited matters are black or of a dark green or coffee-ground color, and have the odor of garlic: white vapors may be seen to proceed from them, and in the dark, they may even appear phosphorescent. Purging has been noticed among the symptoms, and the motions have been observed to be luminous in the dark. The pulse is small, frequent, and scarcely perceptible. There is great prostration of strength, and coldness of the skin with other symptoms of collapse. The patient may die quietly in a comatose state, or be convulsed before death.

Chronic Poisoning.—Chronic poisoning by phosphorus is accompanied by nauseous eructation, frequent vomiting, a sense of heat in the stomach, purging, straining, pains in the joints, wasting, hectic fever, and disease of the stomach, under which the patient slowly sinks. Some interest is attached to the chronic form of poisoning by phosphorus from the researches of Dr. Strohl and others, on the effects of the *vapor* upon persons engaged in the manufacture of phosphorus or lucifer matches. It has been remarked that such persons have suffered from necrosis of the jaw, carious teeth, and abscesses. There has been also great irritation of the respiratory organs, and bronchitis has frequently shown itself among them. (See "ON POISONS," 2d edit. p. 345.)

Appearances.—Among the appearances produced by phosphorus are marks of irritation and inflammation in the stomach and intestines. The stomach has been found much contracted, and its mucous membrane inflamed, occasionally softened and presenting purple or violet-colored spots. Mr. Worbe found the stomach perforated in three places in a dog which had been poisoned by a solution of phos-

phorus in oil. In one fatal case the body was found in a state of great muscular rigidity. The membranes of the brain were congested, and there was serious effusion between them. The substance of the brain was also congested. The heart was flaccid and nearly empty. The mucous membrane of the stomach, gullet, and small intestines was very red, and there were patches in which the membrane was destroyed. When the stomach was opened a white vapor escaped, accompanied by a strong smell of phosphorus. This organ contained a tablespoonful of a viscid greenish matter, from which particles of phosphorus with some Prussian blue (used as a coloring for the phosphorus paste), subsided on standing. ("Lancet," June 13, 1857, p. 600.) The mucous membrane has been found raised in small bladders or vesications, but this appearance was probably owing to putrefaction, as the body was not examined until twenty-three days after death. Schuchardt describes the blood as dark and fluid, and it does not become red on exposure to the air. Ecchymoses are sometimes found on the skin and on the surfaces of various organs. ("Brit. and For. Med. Rev." 1857, vol. 19, p. 506. "Journal de Chimie Médicale," 1857, p. 84.) Among the appearances met with in the acute form of poisoning is a fatty degeneration of the voluntary muscles as well as of the liver, heart, and kidneys. (See a paper on this subject by Dr. Moore, "Dublin Medical Press," Nov. 15, 1865.)

The viscera, and even the flesh of animals recently poisoned by phosphorus, have the peculiar odor of this substance, and they are frequently luminous in the dark. (Galtier, "Toxicologie," vol. 1, p. 184.) Mr. Clowes informed me, that in examining some fowls which had been poisoned with phosphorus, he was struck with the strong odor of this substance on opening the gizzards, and with the appearance of a fine white fume, which was luminous when observed in a dark room. In the case of a woman who died while taking phosphorus medicinally, it was remarked that the whole of the organs were luminous; thus indicating the universal diffusion of this poison by absorption. (Casper's "Wochenschrift," 21 and 28 Feb. 1846, 115, 135.)

That phosphorus is a powerful poison, is proved by two cases quoted by Dr. Christison. In one, death was caused by a grain and a half in twelve days; in the other, by *two grains* in about eight days.

The earliest period at which death has been observed to take place was *four hours*. This was in a case related by Orfila.

Chemical Analysis.—Phosphorus is a solid of waxy consistency, having a peculiar odor and taste resembling garlic. It is the odor and taste which prevent it from being criminally employed as a poison, and render it easy of detection in articles of food. It evolves a white vapor in daylight, and a faint bluish luminosity in the dark. It melts and takes fire at a temperature of 113°, burning with a bright yellow flame, and producing thick white acid vapors by combustion. It is not soluble in water, but it is dissolved by alcohol, ether, chloroform, and the oils. Its most perfect solvent is the sulphide of carbon.

The smell which phosphorus imparts to solids and liquids is remarkably characteristic. When it has been taken in a solid form the particles may be separated as a sediment, by washing the contents of the stomach in water. These may be melted under water into one mass, either by plunging the tube containing them into hot water, or by pouring hot water upon them in a glass. If a portion of the organic liquid is exposed in the dark, the particles of phosphorus will be easily recognized by their luminosity, as well as by their combustion when the surface on which the material is spread is heated. Owing to its great solubility in sulphide of carbon, phosphorus may be separated from many organic matters by digestion with this liquid. It is thus procured from flour and phosphorus-paste, or from the residue of the contents of the stomach after washing and decantation. On the spontaneous evaporation of the sulphide, decanted from the organic liquid or solid, the phosphorus may be procured in small globules or beads. These are ignited when touched with a hot wire, and burn with the bright flame of phosphorus.

The remarkable substance, known under the name of *allotropic phosphorus*, is not possessed of poisonous properties. This fact, long since announced by Liebig ("Letters on Chemistry," 165), has been since confirmed by experiment. It has been given to animals in doses of thirty grains without causing symptoms of poisoning. In October, 1860, a woman, æt. 26, swallowed the composition scraped from a number of lucifer matches made with allotropic phosphorus. She suffered no inconvenience. She procured other matches of common phosphorus, took a decoction of them in coffee, and she died from the effects.

Analysis.—Allotropic phosphorus is easily recognized by its red color and infusibility. When a mixture containing it, is heated to about 500°, it burns like common phosphorus, and yields similar products. It is insoluble in all liquids, and by its insolubility in sulphide of carbon, it is distinguished and separated from common phosphorus. It has no odor or taste, and is not luminous in the dark.

METALLIC IRRITANTS.

CHAPTER XI.

ARSENIC.—ARSENIOUS ACID.—SYMPTOMS.—CHRONIC POISONING.—APPEARANCES AFTER DEATH.—FATAL DOSE.—CHEMICAL ANALYSIS.—ARSENITES.—ARSENIC ACID.—ORPIMENT AND OTHER COMPOUNDS.

WHITE ARSENIC. ARSENIOUS ACID.

Symptoms.—The symptoms produced by this poison vary according to the form and dose in which it has been administered. The time at which they usually come on, is generally in from half an hour to an hour after the poison has been swallowed. They may appear earlier or much later. In a case in which one drachm of white arsenic had been taken on an empty stomach, no symptoms appeared for two hours; in another that occurred to Dr. Lachèse, in which a large dose was taken, there were no symptoms for seven hours. ("Ann. d'Hyg." 1837, vol. 1, p. 344. See also "Med.-Chir. Rev." Jan. 1854, p. 294.) And in a third their appearance was protracted for *ten* hours, the maximum period yet known. In all cases in which arsenic enters the system from without, as by its application to the skin, or to ulcerated or diseased surfaces, the symptoms are rarely manifested until after the lapse of some hours or even days.

The person first experiences a feeling of sinking or faintness, depression, nausea, followed by sickness, with an intense burning pain in the region of the stomach, increased by pressure. The pain in the abdomen becomes more and more severe; and there is violent vomiting of a brown turbid matter, mixed with mucus, and sometimes streaked with blood. These symptoms are followed by purging, which is more or less violent, and this is accompanied by severe cramps in the calves of the legs. The matters discharged from the stomach and bowels have had in some instances a yellowish color, as it was supposed, from a partial conversion of the poison of sulphuret, but more probably from an admixture of bile. The vomited matters are in some cases colored with blood, and the mixture of blood with bile has often given to them a green or brown color. In other cases, they may consist of a large quantity of mucus ejected in a flaky state and having a milky-white appearance, as if from admixture with the poison. The *color* of the vomited matters may be blue or black when colored arsenic has been taken, or the admixture of bile may render them of a deep green color. The vomiting is in general

violent and incessant, and is excited by any liquid or solid taken into the stomach. There is tenesmus (straining), and the discharges by the bowels are frequently tinged with blood. There is a sense of constriction, with a feeling of burning heat in the throat, commonly accompanied by the most intense thirst. The pulse is small, very frequent, and irregular; sometimes wholly imperceptible. The skin is cold and clammy in the stage of collapse; at other times it is very hot. The respiration is painful from the tender state of the stomach. There is great restlessness, but before death, stupor sometimes supervenes, with paralysis, tetanic convulsions, or spasms in the muscles of the extremities. In one instance trismus (lock-jaw) appeared in three-quarters of an hour. ("Orfila," vol. 1, p. 449.) Although pain is in general among the early and well-marked symptoms, arsenic appears in some cases to destroy sensibility. In a case in which the stomach was found intensely inflamed after death, the patient complained of no pain during the time she survived.

Chronic Poisoning.—Should the person recover from the first effects, and the case be protracted, or should the dose have been small and administered at intervals, there will be inflammation of the conjunctivæ, with suffusion of the eyes, and intolerance of light, conditions which are, however, often present among the early symptoms above described. ("Med. Times," Aug. 30, 1851, p. 229.) There is also irritation of the skin, accompanied by a vesicular eruption, which has been called eczema arsenicale. Sometimes this has assumed the form of nettle-rash or of the eruption attending scarlet fever. Local paralysis, preceded by numbness or tingling in the fingers and toes, and other symptoms of nervous disorder, are also common consequences. Exfoliation of the cuticle and skin of the tongue, with the falling off of the hair, has likewise been witnessed. (Case, of the *Turners*, 1815, Marshall, 119.) Salivation has been observed to follow, especially when small doses of the poison have been given for a length of time. ("Med. Gaz." vol. 16, p. 790.) Strangury and jaundice have been noticed among the secondary symptoms. ("Marshall on Arsenic," 44, 111.)

Arsenic is not an accumulative poison; it is temporarily deposited in the organs after absorption, but is rapidly eliminated by the urine; and in from two to three weeks, if the person survives, the whole of that which has been absorbed may be removed from the body. Dr. C. Maclagan states that it begins to pass out of the body by the urine as early as three quarters of an hour after it has been taken (p. 50).

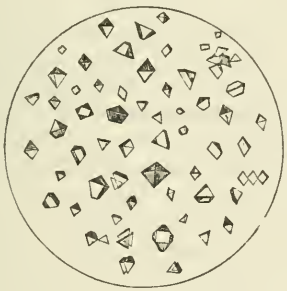
Appearances after Death.—The principal changes produced by arsenic are generally confined to the stomach and bowels. They are commonly well marked in proportion to the largeness of the dose, and the length of time which the person has survived after taking the poison. Our attention must be first directed to the *stomach*. Arsenic seems to have a specific effect on this organ: for, by whatever channel the poison may have entered into the system, whether through a wounded, diseased, or ulcerated surface, or by the act of swallowing, the stomach has been found inflamed. The mucous

membrane of the stomach is sometimes partly detached and is covered with a layer of mucus, mixed with blood or bile, and with a thick white pasty-looking substance containing arsenic. It is commonly found red and inflamed in dotted or striated patches, extending between the two apertures: the color, which is of a dull or brownish red, becomes brighter on exposure to the air: at other times it is of a deep crimson hue, interspersed with black-looking lines or patches of altered blood. The redness is usually most strongly marked at the greater end; in one case it may be found spread over the whole mucous surface, giving to it the appearance of red velvet; in another it will be chiefly seen on the prominences or folds of the membrane. In one instance the coats were thickened and of a gelatinous consistency, without any marked inflammatory redness. The stomach has been found highly inflamed in a case which proved fatal in *two hours*. Thus it would appear that intense inflammation of the mucous membrane may be observed within a very short period. This organ usually contains a mucous liquid of a dark color tinged with blood. The coats are sometimes thickened in patches, being raised up into a sort of tumor, with arsenic imbedded in them: at other times they have been found thinned. The mucous membrane is rarely found ulcerated, and still more rarely gangrenous. Ulceration of the membrane, as the result of the action of arsenic, has been found as early as ten hours after the poison had been taken. Perforation of the coats is not a common result of arsenical poisoning: there are but few instances on record. Various appearances are said to have been met with in the lungs, heart, brain and urinary organs; but they are not so characteristic of arsenical poisoning, as to admit of medico-legal use in enabling a medical man to distinguish poisoning from disease. It is to the stomach and intestines that he must look as the basis of reliable evidence in regard to appearances after death. Dr. Wilks met with an ecchymosed condition of the lining membrane of the left ventricle of the heart in a case in which a man died in twelve hours from acute poisoning by arsenic. In a few instances the mouth, throat, and gullet have been found inflamed, but in general there are no changes in these parts to attract particular attention. The mucous membrane of the *small intestines* may be inflamed throughout, but commonly the inflammatory redness is confined to the upper part, *i. e.* the duodenum, especially to that portion of it which joins the stomach. Of the large intestines, the rectum appears to be the most prone to inflammation. The liver, spleen, and kidneys present no appearances which can be connected with the action of arsenic, although these, like the other soft organs, may become receptacles of the absorbed poison. It is worthy of observation in relation to the known antiseptic properties of arsenic, that the parts especially affected by this poison (the stomach and intestines) occasionally retain the well-marked characters of irritant poisoning for a long time after death. Absorbed arsenic does not, however, appear to prevent the decomposition of the soft organs in which it is deposited.

Arsenic may destroy life as the result of external application to

any diseased or ulcerated surface, or to a wound. (See "Guy's Hospital Reports," Oct. 1864, p. 220.) The smallest *fatal dose* of arsenic hitherto recorded is *two grains*. ("Provincial Med. Journal," June 28, 1848, p. 347; also "Medical Gazette," vol. 39, p. 116.) Under circumstances favorable to the operation of this poison, the fatal dose in an adult may be assigned at from *two to three grains*. Large doses of arsenic commonly destroy life in from eighteen hours to three days. The average time at which death takes place is twenty-four hours; but the poison may destroy life within a much shorter period. In a case which occurred in April, 1849, death took place in two and a half hours. ("Guy's Hospital Reports," Oct. 1850, 183. See also "Ann. d'Hyg." 1837, vol. 1, p. 339.) Mr. Foster of Huntingdon, met with the case of a child under three years of age, who died within *two hours* from the effects of arsenic. One case is said to have proved fatal in twenty minutes. On the other hand life is occasionally protracted for many days. In October 1847, a man who had swallowed 220 grains of arsenic was admitted into Guy's

Fig. 2.



Crystals of Arsenious Acid by sublimation, magnified 30 diameters.

Fig. 3.

Ordinary reduction tube, with two sublimates; the upper, brownish black; the lower, the pure metal in an annular deposit.

Hospital, and died on the *seventh* day. In the case of *Dr. Alexander* death took place on the *sixteenth* day; and although a large quantity of arsenic had been taken, no traces were found in the body. ("Med. Times and Gazette," April 18, 1857, p. 389.) In an instance in which arsenic was applied externally to the head, the person did not die until the *twentieth day*.

Chemical Analysis. Arsenic as a solid.—In the simple state; *white arsenic* may be identified by the following properties: 1. A small quantity of the powder, placed on platinum foil, is entirely volatilized at a moderate heat (370°) in a white vapor. If a small portion of the white powder be very slowly heated in a glass tube of narrow bore, it will be sublimed without melting, and form a ring of minute octahedral crystals, remarkable for their lustre and brilliancy. Under a microscope of high magnifying power (250 diameters), the appearance of these crystals is highly characteristic (Fig. 2). 2. On boiling a small quan-

tity of the powder in distilled water, it is not readily dissolved, but it partly floats in a sort of film, while a part becomes aggregated in small lamps at the bottom of the vessel. It requires long boiling, in order that it should become dissolved and equally diffused through water.

3. When a small portion of the white powder, *i. e.* from one-fourth to one-twentieth part of a grain, is heated with two parts of *soda flux* (obtained by incinerating acetate or tartrate of soda in a close vessel) in a glass tube about three inches long and from one-eighth to a quarter of an inch in diameter, it is decomposed: a ring of metallic arsenic of an iron-gray color is sublimed and deposited in a cool part of the tube. During the reduction there is a perceptible odor, resembling that of garlic, which is possessed by metallic arsenic only, while passing from a state of vapor to arsenious acid. In this experiment of *reduction*, there are frequently two rings deposited in the tube (fig. 3): the upper and larger ring has a brown color, and appears to be a mixture of finely divided metallic arsenic and arsenious acid; the lower ring is small and consists of the pure metal. The appearance presented by these sublimates is indicated in the annexed illustration. By heating gently the tube containing the sublimate (reduced to powder) in another tube of larger diameter, the metallic arsenic, during volatilization, forms octahedral crystals of arsenious acid, which, after examination by the microscope may be dissolved in a few drops of water, and tested by one or more of the liquid reagents.

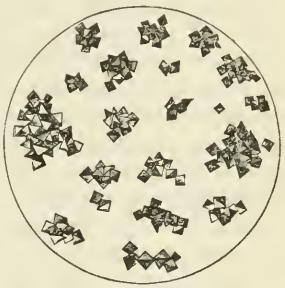
The metallic sublimates, or the crystals produced from them, may be further subjected to the following process: Break the glass on which the sublimate is deposited, into fragments, and digest these in a few drops of the strongest nitric acid, containing nitrous acid, previously proved to be free from arsenic. The sublimate is thereby converted into arsenic acid. The acid solution should be evaporated to dryness; the white uncrystalline residue obtained should be dissolved in a few drops of distilled water, and a strong solution of nitrate, or of ammonio-nitrate, of silver added in small quantity to the residue. A brick-red coloration indicates arsenic acid, and thus proves incontestably that the sublimate was of an arsenical nature. The upper or brownish-looking sublimate may be readily converted into one of the pure metal, by gently heating it in the flame of a spirit lamp. Arsenious acid is then volatilized, and an iron-gray deposit of metallic arsenic appears. If the heat is continued, the whole of the metallic sublimate is volatilized and deposited in a cool part of the tube, in transparent and colorless octahedra of arsenious acid. This is the special character of an arsenical sublimate: it may be thus distinguished from sublimates of all metals or metalloids. The lower metallic sublimate procured by reduction, sometimes presents itself, not in an annual form, but in detached particles of a somewhat globular shape. These are of an iron-gray color, quite unlike sublimed mercury, and when examined by the microscope, it may be seen that they consist of crystalline masses nucleated, and that they are not strictly spherical. This sublimate is frequently produced in the last stage, when the residue in the tube is strongly

heated. *The process of reduction*, with the corroborative results above mentioned, is, when thus applied, conclusive of the arsenical nature of the substance under examination.

Arsenic in Solution in Water. Liquid Tests.—The solution of arsenious acid is clear, colorless, possesses scarcely any perceptible taste, and has but a feebly acid reaction. In this state, we should first evaporate slowly a few drops on a glass slide, when a crystalline deposit will be obtained. On examining this with a microscope, it will be found to consist of numerous minute octahedral crystals, presenting triangular surfaces by reflected light. (See Fig. 4.)

1. *Silver Test.*—On adding to the solution of white arsenic *ammonio-nitrate of silver*, a pale yellow precipitate of arsenite of silver falls down; changing, under exposure to daylight, to an olive-green color. The test is made by adding to a strong solution of nitrate of silver, a weak solution of ammonia, and continuing to add the latter, until the brown oxide of silver, at first thrown down, is almost re-dissolved. The yellow precipitate is soluble in nitric, tartaric, citric, and acetic acids, as well as in ammonia. It is not dissolved by potash or soda.

Fig. 4.



Crystals of Arsenious Acid from a solution, magnified 124 diameters.

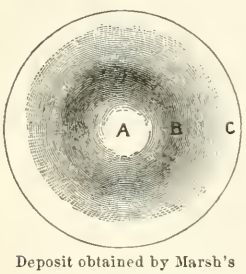
2. *Copper Test.*—On adding to another portion of the solution *ammonio-sulphate of copper*, a light-green precipitate (arsenite of copper) is formed, the tint of which varies according to the proportion of arsenic present, and the quantity of the test added: hence, if the arsenic is in small proportion, no green precipitate at first appears; the liquid simply acquires a blue color from the test. In less than an hour, if arsenic is present, a bright green deposit is formed, which may be easily separated from the blue liquid by decantation. This test is made by adding ammonia to a weak solution of sulphate of copper, until the bluish-white precipitate, at first produced, is nearly re-dissolved; it should not be used in large quantity if concentrated, as the deep blue color tends to obscure or conceal the green precipitate formed. The *dried* precipitate of arsenite of copper, when slowly and moderately heated in a well-dried reduction-tube, will yield a ring of octahedral crystals of arsenious acid—oxide of copper being left as a residue.

3. *Sulphuretted Hydrogen Test.*—The gas may be procured by adding to sulphide of iron in a proper apparatus, a mixture of one part of strong sulphuric acid and three parts of water. The arsenical liquid should be slightly acidulated with pure diluted hydrochloric acid, *before* the gas is passed into it: at least, care should be taken that it is not alkaline. A yellow precipitate (orpiment) is immediately produced if arsenic is present, and it may be collected after boiling the liquid sufficiently to drive off any surplus gas. It is known to be sulphide of *arsenic* by the following properties: 1. It is insoluble

in water, alcohol, and ether, as well as in diluted hydrochloric acid, and vegetable acids: but it is decomposed by strong nitric and nitro-hydrochloric acids. 2. It is immediately dissolved by potash, soda, or ammonia; forming, if no organic matter is present, a colorless solution. 3. When dried and heated with three parts of soda-flux, or an equal part of dry cyanide of potassium, it yields a sublimate of metallic arsenic.

Marsh's Process. Hydrogen Test.—The action of this test depends on the decomposition of arsenious acid and its soluble compounds, by nascent hydrogen evolved from the action of diluted sulphuric or hydrochloric acid on zinc. The materials should be first proved to be free from arsenic. The apparatus is of the most simple kind, and is so well known as to need no description or illustration. The arsenic may be introduced into the short leg of the tube in the state of powder; but it is far better to dissolve it in water, by boiling, either with or without the addition of a few drops of hydrochloric acid. The metallic arsenic combines with the hydrogen, forming arsenuretted hydrogen gas, which possesses the following properties: 1. Filtering paper wetted with a solution of nitrate of silver is immediately blackened by the gas—the silver being reduced to the metallic state. Lead-paper is not changed in color unless sulphuretted hydrogen is also present. 2. It burns with a pale bluish-white flame, and thick white smoke (arsenious acid). 3. A slip of glass or white porcelain held in the flame near the point (for not too long a time) acquires a dark stain from the deposit of metallic arsenic upon it. This deposit presents a metallic lustre in the centre (A), a white film of arsenious acid on the outside (C), and between the two a dark ring of a pulverulent substance (B), which, when viewed by transmitted light, is hair-brown in color towards the margin, but perfectly opaque in the centre. In order to determine the arsenical nature of the deposits, the following plan may be adopted: Several of them should be received and accumulated in small porcelain capsules, held in the flame of the burning gas. To one, add a solution of chloride of lime: the arsenical deposit is immediately dissolved. To a second, add a solution of sulphide of ammonium: the metallic deposit is detached, but not perfectly dissolved: yet on evaporation it yields a pale yellow film of sulphide of arsenic. To a third, add a few drops of the strongest nitric containing some nitrous acid. The deposit is dissolved: evaporate the acid solution gently to dryness; carefully neutralize the residue, and add one or two drops of a strong solution of nitrate of silver. A brick red stain or a dark red precipitate of arsenate of silver will be produced.

Fig. 5.



Deposit obtained by Marsh's Apparatus.
A Metal. B Mixed deposit.
C Arsenious acid.

Reinsch's Process.—In the application of this process, the liquid suspected to contain arsenic, or the solid dissolved in distilled water, is boiled with from one-sixth to one-eighth part of *pure* hydrochloric

acid (proved to be free from arsenic), and a small slip of copper is then introduced. A slip of polished copper foil (electric copper) about a quarter of an inch square, attached to the end of a thin platinum wire, may be employed for the experiment. The copper must be first proved to be free from arsenic, as this is a very common contamination of commercial copper in the form of foil, gauze, or wire. If arsenic is present in the liquid, even in small quantity, the polished copper acquires either immediately or within a few minutes a dark iron-gray coating from the deposit of this metal. This is apt to scale off, if the arsenic is in large quantity or if the liquid is very acid or long boiled. We remove the slip of copper, wash it in water, dry it, and gently heat it in a small reduction tube, when arsenious acid will be sublimed in minute octahedral crystals: if these should not be apparent from one piece of copper, several may be successively introduced. When the quantity of arsenic is small, the polished copper merely acquires a faint bluish tint. The deposit is in all cases materially affected by the quantity of water present, or, in other words, the degree of dilution, and sometimes it will appear only after the liquid has been much concentrated by evaporation. The presence of arsenic as an impurity in copper may be detected by the following method suggested by Mr. Abel. Add to pure hydrochloric acid, diluted with six parts of water, one or two drops of a weak solution of persulphate or perchloride of iron. Boil the acid liquid and introduce the copper, well cleaned and polished, into the boiling liquid. Arsenicated copper soon acquires a dark tarnish, while the non-arsenicated (electric) copper retains its color under these circumstances.

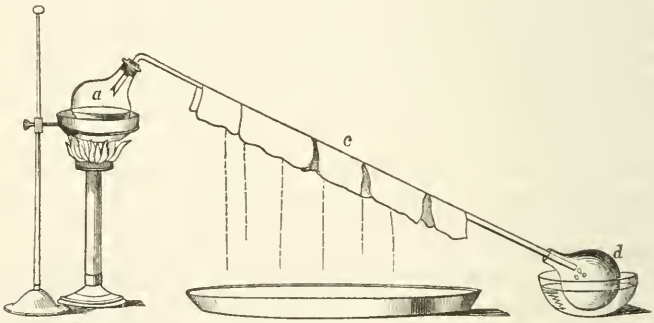
Arsenic in Liquids containing Organic Matter.—Arsenic may exist in an insoluble form—*i. e.*, as a crystalline powder—in the contents of the stomach or any liquid article of food. If coarsely powdered it may be separated as a heavy sediment, by careful washing with distilled water, and then dried and tested by the reduction process (p. 115). Any liquid for analysis should be strained through muslin or filtered through paper in order to separate all insoluble matters: these should be well-pressed and drained. Should the liquid be colored, this is of little moment, provided it is clear. If viscid, it should be diluted with water, and boiled with a small quantity of hydrochloric acid; on standing, a deposit may take place, and this should be separated by a filter. As a trial test, we may now boil in a portion of the liquid, acidulated with pure hydrochloric acid, a slip of pure copper highly polished, and examine any deposit on the metal by the method above described. If the copper comes out unchanged there is no detectable quantity of arsenic present.

When arsenic is present in an organic liquid in large quantity, it may be precipitated as sulphide by a current of washed *sulphuretted hydrogen*. The liquid should be boiled, filtered, and acidulated with hydrochloric acid before passing the gas into it. When precipitation has ceased, the liquid should be again filtered, the precipitate collected, dried, and weighed. By operating on a measured portion of the solution, the amount of white arsenic present may be determined by

the weight of the sulphide obtained; five parts by weight of sulphide being equal to four parts of white arsenic. The properties of the yellow precipitate should be verified according to the rules mentioned at page 117.

Distillation Process.—When the poison is in so small a quantity that it does not admit of precipitation by sulphuretted hydrogen, and no solid particles of arsenic are found in the stomach, in its contents, or in any article of food, another method may be resorted to for detecting its presence. This method equally applies to the detection of arsenic deposited as a result of absorption in the soft organs of the body, as in the liver, kidney, or heart, and to arsenic in all its forms, except the pure insoluble sulphide or orpiment. The substance, whether food, blood, mucus, the liver, or other organ, should be first thoroughly dried, either by exposure to a current of air or by a water-bath. The dried solid should then be broken into small portions and placed in a flask or retort of sufficient capacity, with a sufficient quantity of the strongest hydrochloric acid (free from arsenic) to drench it completely. After some hours' digestion in the cold, the retort or flask (*a*) containing the mixture—which should be

Fig. 6.



Apparatus for distilling organic and mineral substances containing Arsenic.

of such a size that the materials should not fill it to more than one-third or one-half of its capacity—should be fitted with a long condensing tube (*c*), and then gradually heated by a sand-bath until the acid liquid begins to pass over. A metallic head, formed of a cone of tin plate, should be placed over the retort or flask so as to concentrate the heat and prevent condensation in the upper part of the vessel. A small flask receiver (*d*) with a loosely-fitting cork may be employed to collect the product. This should contain a small quantity of distilled water so as to fix and condense any vapors that may pass over. The receiver, as well as the condensing-tube, should be kept cool by wetting its surface with cold water diffused on a layer of blotting-paper placed over it. A perfect condensation of the distilled liquid is insured by this arrangement. This distillation may be carried to dryness on a sand-bath, or nearly so; and it may be sometimes advisable, in order to insure the separation of the whole

of the arsenic as chloride, to add to the residue in the retort when cold, another portion of pure and concentrated hydrochloric acid, and distil to dryness. I have, however, found that portions of dried liver and stomach gave up every trace of arsenic by one distillation, when a sufficient quantity of hydrochloric acid had been used, and the process was slowly conducted by a regulated sand-bath heat.

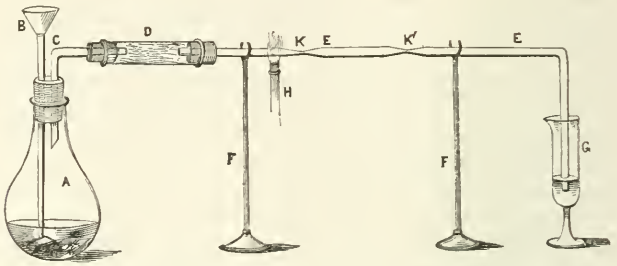
The liquid product may be colored, turbid, and highly offensive if distilled from decomposed animal matter. Exposure to the air for a few hours sometimes removes the offensiveness, and there is a precipitation of sulphur, or of some sulphide of arsenic. The distillate may be separated from any deposit by filtration, and if still turbid, it may be again distilled at a lower heat to separate it from any organic matter that may have come over. If there is a yellow deposit it should be examined for sulphide of arsenic.

If arsenic is present in the substance submitted to distillation, the distillate will contain arsenic in the form of soluble chloride; this does not escape from a diluted solution at common temperatures. The quantity of dry organic substance used in the experiment must depend on the quantity of arsenic present, as revealed by a preliminary trial with Reinsch's process. If large, two or three drachms of the dried substance, or even less, will yield sufficient chloride of arsenic for further proceedings. For the absorbed and deposited poison, half an ounce of the dried organ, corresponding to two ounces of the soft organ, will frequently suffice; but a negative conclusion of the absence of arsenic should not be drawn from a smaller quantity than two to four ounces of the dried substance, whether liver, kidney, or heart. These tissues it must be remembered, contain about 76 per cent. of water. If oily matter should be distilled over, this may be separated by passing the distillate through a paper filter wetted with water.

The distilled liquid, containing *chloride of arsenic*, should if clear be submitted to a further stage of analysis. For this purpose one third of it should be distilled with three or four parts of water and boiled in a clean flask. When boiling, a piece of bright copper-foil (free from arsenic), of about the size of the sixteenth of a square inch, should be introduced. If there is chloride of arsenic in the liquid, even up to the 1-4000th of a grain, its presence will be indicated by a change of color, and by the deposit of a dark metallic film on the copper. If the liquid should be too much diluted for this purpose, it may be concentrated on the polished copper, and the deposit will after a time be apparent. If the quantity of arsenic present is believed to be very small, the surface of copper introduced should be proportionately small. The remaining two-thirds of the distilled liquid, sufficiently diluted, should now be introduced into a Marsh's tube, or into an evolution flask provided with a funnel-tube, the capacity of which must be regulated by the quantity of acid liquid to be examined. The kind of apparatus employed in this stage is represented in the engraving, Fig. 7. A the flask with funnel tube B, and connecting piece C; the funnel tube should be long enough just to dip below the surface of the acid liquid. The short

connecting piece is bent at a right angle, and, like B, is carried through a closely fitting cork in the neck of the flask. This tube should be only long enough to go through the cork, and its open end should be bevelled off to a fine point, so that any vapor which is condensed

Fig. 7.



Apparatus for testing chloride of arsenic obtained by distillation.

Fig. 8.

Portion of tube separated with a deposit of metallic arsenic in the contracted portion.

on it may fall back as liquid into the flask. D is the drying tube containing fragments of chloride of calcium, secured by cotton at both ends. At the flask end of this tube should be placed some well-dried bibulous paper, saturated with acetate of lead. This has the advantage of stopping any gaseous sulphur compound, which may escape from the zinc or acid liquid. E E, a hard and not easily fusible glass tube, free from lead, contracted in two situations K K', to about the diameter of the tenth of an inch or less, the tube itself having a diameter of from a quarter to three-eighths of an inch. F F are supports made of a stout wire, to prevent the tube from falling when heated to redness. G is a test glass to hold one or two drachms of a strong solution of nitrate of silver. H is a Bunsen's air-gas jet, which gives a stronger heat than a spirit-lamp, although the latter may be used.

The arrangement being thus made, the zinc and hydrochloric acid are first tested as to their freedom from arsenic. Portions of pure zinc are placed in the flask A, the parts of the apparatus are then connected, and pure hydrochloric acid, diluted with three or four parts of water, is poured into the flask by the funnel B, which operates as a safety valve. Bubbles of air and gas speedily appear in the liquid in G, if the corks fit well and the whole of the arrangements are air-tight. Pure zinc is sometimes but imperfectly acted on by the acid. In this case some clean platinum wire or foil may be wound round the bars of the zinc, and the evolution of hydrogen will be thus accelerated. It is, however, better that the hydrogen should come off rather slowly. If the materials are pure, the solution of nitrate of silver should undergo no change of color. The glass G should be placed on a sheet of white paper, whereby the

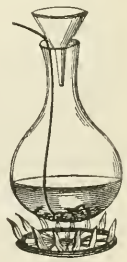
slightest tinge of brown or black is made perceptible. When all the air is expelled from the tube, the smokeless flame H may be applied to it at about one inch in front of a contraction of the tube, as indicated in the engraving, and the glass heated to redness. No metallic deposit should take place at K. If the materials are quite pure, the transparency of the glass tube at K will be unchanged. From a quarter to half an hour will be sufficient for this experiment.

The silver solution is allowed to become saturated with the gas. Any escape of the gas from the glass, or by leakage from any of the junctions of the apparatus, is at once indicated by holding near to the spot, filtering paper wetted with nitrate of silver. This is instantly blackened. The glass with the silver solution is removed, the end of the tube well washed, or another tube substituted for E E, and this is allowed to dip into about one drachm of the strongest nitric acid, containing much nitrous acid in a test-glass similar to G, or into a small porcelain capsule. After a time, the acid loses its color, and the metallic arsenic of the gas is converted into arsenic acid, which may be obtained by evaporation.

The further testing of the products is a very simple process. 1. The silver solution contains arsenic in the state of arsenious acid dissolved, with some excess of nitrate of silver. By one or two filtrations it is obtained colorless and clear. A weak solution of ammonia is then added to it, and yellow arsenite of silver is at once precipitated (see p. 117). The nitric acid liquid is evaporated to dryness in a small porcelain capsule. One or two drops of water are added to the residue, with a drop of weak ammonia if it should be very acid. A strong solution of nitrate of silver is then added to it; arsenate of silver, of its well-known brick-red color, is immediately produced. 3. The portions of tube K K′ with the metallic deposits in them may be separated by a file, and then hermetically sealed, or, if necessary, one or more of them may be tested by the methods described in a preceding page (see p. 116.)

With these results the evidence of the presence of arsenic may be considered to be conclusive. The poison is obtained by this process, not only in its pure metallic state, but in the distinct forms of its two well-known oxides—arsenious and arsenic acids. Any demonstration beyond this is superfluous. It will be observed that Reinsch's process is here employed as an adjunct to Marsh's process in an improved form, in which the burning of the gas is unnecessary.

Fig. 9.



Flask employed in the analysis of substances by Reinsch's process.

Reinsch's Process alone may be employed for detecting arsenic, deposited as a result of absorption, in the liver, kidneys, or other organs. About four ounces of the recent organ, or more, if necessary, cut into small pieces, may be boiled in a flask in a mixture of one part of pure hydrochloric acid and four of water, until the structure of the organ is broken up. The flask may be of the shape represented, in the annexed engraving, and either a naked spirit-flame or a sand-bath may be employed. A small

glass funnel should be placed in the neck of the flask. This receives and condenses the vapor which falls back into the flask. By this arrangement the boiling may be continued for a long time, without material loss by evaporation. The flask should not be more than half full, and heated gently until all froth is expelled. A slip of fine platinum wire, having a small piece of pure copper-foil, should be immersed in the liquid when boiling. This enables the operator to remove the copper and examine it at intervals, after immersing it in distilled water. If it is much coated with a metallic deposit, larger portions of copper-foil may be successively introduced until the liquid is exhausted. The deposit on the copper may then be tested by the method described at page 119.

It might be supposed that arsenic would escape as chloride in this method of operating, but when hydrochloric acid is diluted with six or eight parts of water, little or no volatile chloride is distilled over. In reference to the recent organs, a larger proportion of acid may be used, because three-fourths of the weight of the animal substance really consists of water.

It need hardly be observed that the *quantity of arsenic found in the stomach* or other organs can convey no accurate idea of the quantity actually taken by the deceased, since more or less of the poison may have been removed by violent vomiting and purging as well as by absorption and elimination. A large quantity found in the stomach or bowels indicates a large dose; but the finding of a small quantity does not prove that the dose was small. Notwithstanding these very obvious causes for the removal of a poison from the body, there is a strong prejudice among lawyers that the chemical evidence is defective unless the quantity found is sufficient to cause death. It would be just as reasonable, in a case in which a man has been killed by a discharge of small shot, to insist upon a failure of proof of the cause of death, because only a single pellet has been found in the body. The value of chemical evidence does not depend on the discovery of any particular *quantity* of poison in the stomach—it is merely necessary that the evidence of its presence should be clear, distinct, conclusive, and satisfactory. At the same time, a reasonable objection may be taken to a dogmatic reliance upon the alleged discovery in a dead body, of minute fractional portions of a grain; and, considering the great liability to fallacy from the accidental presence of arsenic in the articles used, the chemical evidence in the French case of *Madame Laffarge* (1840), in which the whole quantity discovered in the dead body was stated to be the hundred and thirtieth part of a grain, was of a most unsatisfactory kind, and should have been rejected by the court. No man with any respect for his character, or for the common sense of a jury, would base chemical evidence on the thousandth, or less than the thousandth, part of a grain of poison in a case of life and death; although, for the purpose of procuring the acquittal of a criminal, he may safely boast of his alleged power to detect this, or even a smaller quantity.

The condition of the arsenic found in a dead stomach should be specially noticed. A witness should be prepared to say whether it

is in fine powder or in coarse fragments; whether it is mixed with soot or indigo, or whether it is in the ordinary state of white arsenic. These points may be material as evidence in reference to proof of possession, of purchase, or administration.

Arsenic is *not* a normal constituent of the body. Under no circumstances is it found in the tissues after death, except in cases in which it has been taken or administered.

Arsenite of Potash. Liquor Arsenicalis. (Fowler's Solution.)

Symptoms and Appearances.—There is, so far as I know, only one case recorded in which this solution has destroyed life. A woman took half an ounce (=two grains of arsenic) in divided doses, during a period of five days, and died from the effects. There was no vomiting or purging, but after death the stomach and intestines were found inflamed. ("Provincial Journal," June 28, 1848, p. 347.)

Analysis.—The solution has the odor of tincture of lavender, is of a reddish color, and has an alkaline reaction. One fluidounce of it contains four grains of arsenious acid. It gives at once a green precipitate (arsenite of copper) with the sulphate of copper, and a yellow precipitate with nitrate of silver. Acidulated with hydrochloric acid, and treated with a current of sulphuretted hydrogen gas, it yields a yellow sulphide; and when boiled with this acid and pure copper, a deposit is obtained which readily furnishes by heat octohedral crystals of arsenious acid.

Fly-Water is a name applied to solutions of various arsenical compounds in water. Mixtures of this kind are formed by dissolving one part of the arsenite of soda or potash and two parts of sugar in twenty parts of water. Paper soaked in this solution, and dried, is used for poisoning flies; and perhaps this is the safest form in which arsenic can be used for such a purpose.

Arsenite of Copper. Scheele's Green. Emerald Green.

This is the only metallic arsenite which is met with in commerce and the arts, and it constitutes, wholly or in part, a great variety of green pigments, known as Emerald green (aceto-arsenite of copper) employed for paper-hangings, mineral green, Brunswick, Schweinfurt, or Vienna green. It is thus found in the form of oil-paint in cakes, in boxes of water colors, spread over confectionery, in wafers, in adhesive envelopes, in wrappers for chocolate, isinglass, &c., and lastly, and most abundantly, in various kinds of green decorative papers used for covering the walls of sitting and bedrooms.

Although this compound is insoluble in water, it is sufficiently soluble in the acid mucous fluids of the stomach to be taken up by the absorbents, and carried as a poison into the blood. The symptoms and appearances which it produces resemble those caused by arsenious acid or white arsenic.

In a case which was the subject of a criminal trial, this substance

was proved to have caused the death of a gentleman by reason of its having been employed to give a rich green color to some blanc-mange served at a public dinner:—the person who employed it considering that emerald or mineral green was nothing more than an extract of spinach! It led to death under the usual symptoms, and the parties were convicted of manslaughter and sentenced to imprisonment. (*Reg.* v. *Franklin and Randall*, Northampton Summer Assizes, 1848.)

The *symptoms* of poisoning which have been observed in persons who have inhabited rooms of which the walls were covered with this arsenical compound, are as follows: Dryness and irritation of the throat, with cough, irritation of the mucous membrane of the eyes and nostrils, dry cough, languor, headache, loss of appetite, nausea, colicky pains, numbness, cramp, irritability of bowels, attended with mucous discharges, great prostration of strength, a feverish condition, and wasting of the body. These symptoms may not all present themselves in one case; they are derived from the examination of numerous cases which have been referred to me. No suspicion of the cause had been entertained until all ordinary treatment failed to impart relief, and an analysis of the paper had been made. The connection of the symptoms with this cause appears to have been in some instance clearly established by the fact that after the removal of the paper especially from bedrooms, the symptoms have disappeared. It is, however, proper to observe that, as in reference to the manufacture of white lead, comparatively few of those who are exposed, suffer from symptoms of poisoning. Various deaths, chiefly among children, from the use of this paper are now recorded; and it is probable that to the noxious practice of covering the walls of our sitting and bedrooms with arsenic, many insidious cases of illness and chronic disease may be referred.

Analysis.—For the chemical characters of SCHEELE'S GREEN, see page 117. The wall-paper pigment called EMERALD GREEN is a mixture of arsenite and acetate of copper. The color is most intense, even by candle-light. The presence of arsenic in this compound may be easily detected by all the tests for solid arsenic (page 115); but the following is a simple method which admits of speedy application. A slip of the suspected paper should be soaked in a moderately-strong solution of ammonia. The green color is removed, and the blue ammoniuret of copper is formed and dissolved in a few minutes. This result establishes only the presence of a compound of copper soluble in ammonia. If the ammonia does not become blue there is no arsenite present; if it does become blue, a large crystal of nitrate of silver must be placed in a white saucer and a small portion of the blue liquid poured over it. The presence of arsenic is revealed by the production of yellow arsenite of silver over the surface of the crystal.

ARSENIC ACID. ALKALINE ARSENATES.

Arsenic acid is an artificial product almost entirely confined to the chemical laboratory. Orfila states that it is a more powerful poison

than arsenious acid, but he does not adduce any instance in support of this opinion. I have not been able to find any case of poisoning by it in the human subject. The arsenates of potash and soda must be regarded as active poisons, although there are but few instances on record in which life has been destroyed by them. Dr. Christison states that, in the course of his reading he has met with only two reported cases of poisoning by arsenate of potash. (Op. cit., 284.)

Analysis.—Arsenic acid is a white unerystalline deliquescent solid. 1. It is very soluble in water, forming a highly acid solution. 2. It is precipitated of a brick-red color by nitrate or the ammonio-nitrate of silver.

Sulphides, or Sulphurets of Arsenic. Orpiment.

Orpiment or Yellow Arsenic owes its poisonous properties to the presence of a variable proportion of arsenious acid, sometimes amounting to as much as 30 per cent. of its weight. Orpiment is much employed in the arts, in painting, dyeing, paper-staining, and even in the coloring of toys and sweetmeats for children, but is not often used as a poison!

Orpiment produces *symptoms* and *appearances* similar to those caused by arsenious acid; but the dose required to destroy life varies according to the proportion of arsenious acid with which it happens to be mixed. This is not a common form of poisoning; the yellow color of the poison would lead to suspicion: but by reason of this color, orpiment may be given or taken by mistake for mustard or turmeric.

Analysis.—The powdered sulphide yields a solution of arsenious acid on boiling it in water acidulated with hydrochloric acid. It readily gives the well-known sublimates of metallic arsenic, either with soda-flux or cyanide of potassium (see p. 117).

Arsenuretted Hydrogen.

This is a gaseous poison of arsenic, producing, when respired in small quantity, very serious effects upon the system. It has already occasioned death in at least four instances. (See "On Poisons.") One of them is comparatively recent. ("Chemical News," Dec. 26, 1863, p. 307.)

CHAPTER XII.

POISONING BY MERCURY.—CORROSIVE SUBLIMATE.—SYMPTOMS.—CHRONIC POISONING.—APPEARANCES AFTER DEATH.—CHEMICAL ANALYSIS.—PROCESS FOR MERCURY IN ORGANIC LIQUIDS.—WHITE AND RED PRECIPITATES.—MERCURIC METHIDE AND OTHER COMPOUNDS.

METALLIC MERCURY is not regarded as a poison. A large quantity of it in the fluid state may be swallowed without affecting health, or without causing more uneasiness than that which may arise from its great weight. It rapidly passes through the bowels. If the mercury is breathed or swallowed in a state of vapor, or if applied to the skin or mucous membrane in a state of extreme mechanical division, in which state it appears to be easily susceptible of oxidation, it is liable to be absorbed, and to produce a poisonous action on the body. The effects are principally manifested by salivation, by trembling and involuntary motions of the limbs, loss of appetite, and emaciation. These symptoms are occasionally seen in workmen engaged in trades in which they are exposed to the inhalation of mercurial vapors.

CORROSIVE SUBLIMATE.

This substance has received a variety of chemical names. It has been at various times called *Oxymuriate*, *Chloride*, *Bichloride*, and *Perchloride of Mercury*. To prevent any confusion from scientific chemical nomenclature, the old and popular name of *Corrosive Sublimate*, expressing the principal properties of the substance, is here retained. It is commonly seen under the form of heavy crystalline masses, or of a white crystalline powder. Its *taste* is powerfully austere and metallic, so that no poisonous quantity of it could be easily swallowed, without the person becoming immediately aware of it. It is very *soluble* in water, hot or cold, and speedily sinks in it, in which properties it differs strikingly from arsenic.

Symptoms.—The symptoms produced by corrosive sublimate generally come on immediately or within a few minutes after the poison has been swallowed. In the first place there is perceived a strong metallic taste in the mouth, often described as a coppery taste; and there is, during the act of swallowing, a sense of constriction almost amounting to suffocation, with burning heat in the throat, extending downwards to the stomach. In a few minutes violent pain is felt in the abdomen, especially in the region of the stomach, which is increased by pressure. There is nausea, with frequent vomiting of long stringy masses of white mucus, mixed with blood, attended

with severe pain in the abdomen and profuse purging. The countenance is sometimes swollen and flushed, in other cases it has been pale and anxious. The pulse is small, frequent, and irregular, and is scarcely perceptible when the symptoms become aggravated. The tongue is white and shrivelled—the skin cold and clammy, the breathing difficult; and death is commonly preceded by fainting, convulsions, or general insensibility. The external parts of the mouth, when examined, are swollen, and sometimes present a white appearance, as if the cavity had been washed with a solution of nitrate of silver; the lips are often swollen. Suppression of urine has also been frequently noticed among the symptoms; it existed in a well-marked case of poisoning by this substance, at Guy's Hospital; the patient lived four days, but did not pass any urine during the whole of this time. ("Guy's Hospital Reports," April, 1844, p. 24.) This symptom was observed in a case reported by Dr. Wegeler (Casper's Wochenschrift," Jan. 10, 1846, p. 30), in which a youth, æt. 17, swallowed three drachms of the poison, and died on the sixth day. During the last three days, no urine was secreted. The case was otherwise remarkable from the fact, that no pain was experienced on pressure of the abdomen, and that the pulse underwent no change until shortly before death. In another case, reported by Dr. Herapath, in which a scruple of corrosive sublimate in solution was swallowed, suppression of urine and salivation came on on the third, and the patient died on the ninth day. ("Lancet," Dec. 13 and 27, 1845, pp. 650, 698.) The *external* application of corrosive sublimate to tumors or ulcers may destroy life with all the usual symptoms of acute mercurial poisoning.

This poison differs from arsenic: 1, in having a well-marked taste; 2, in producing violent symptoms in a few minutes; and 3, in the fact that the evacuations are more frequently mixed with blood. The symptoms produced by corrosive sublimate, in the first instance, resemble those of cholera; if the person should survive several days, they are more like those of dysentery—violent straining and shreddy mucous discharges mixed with blood, being frequently observed.

Slow or Chronic Poisoning.—The symptoms are much modified when the poison is taken in small doses at intervals for some days or weeks. There are colicky pains with nausea, vomiting, general uneasiness and depression. The salivary glands become inflamed and painful; the tongue and gums are red and swollen, sometimes ulcerated, and there is fœtor of the breath. A deep blue line, like that observed in poisoning by lead, is sometimes found around the edges of the gums. The patient experiences difficulty of swallowing and breathing. The constitutional effects are indicated by irritability or looseness of the bowels, difficulty of breathing, spitting of blood, cough, general trembling or convulsive movements of the limbs and palsy, with fever and emaciation, under which the patient sinks. One of the most marked effects of slow or chronic poisoning by mercurial preparations is *salivation*, or ptyalism, indicated by an increased flow of saliva. This is by no means a necessary symptom

in cases of acute poisoning by corrosive sublimate, but it not unfrequently shows itself about the second or third day. In some instances the patient dies too rapidly for this effect to follow; but even when he survives some days, salivation is not always observed. In placing reliance upon this symptom, it must be remembered that salivation may arise from a variety of causes irrespective of the use of mercury.

Appearances after Death.—These, as in the case of arsenic, are chiefly confined to the stomach and bowels. Corrosive sublimate, however, affects the mouth, throat, and gullet; the mucous membrane is softened, of a white or bluish-gray color, and sometimes inflamed; that lining the gullet is similarly affected, and partly corroded and softened. The mucous membrane of the stomach is more or less inflamed, sometimes in patches; and there are masses of black extravasated blood found beneath it. Occasionally it has a slate-gray color and the mucous coat beneath may be found reddened. A case occurred in Guy's Hospital, in which the mucous membrane was simply inflamed; it much resembled the condition presented in cases of arsenical poisoning. The coats of the stomach are sometimes corroded, and so much softened that they cannot be removed from the body without laceration. Similar appearances have been met with in the large and small intestines, especially in the cæcum. In a case reported by Dr. Herapath, in which a scruple was taken, and death occurred on the ninth day, the mucous membrane of the stomach was softened, but there were no well-marked appearances of the irritant action of the poison on this organ. The cæcum had been the seat of the most violent inflammation, the whole surface being of a deep black-red color, and there were patches of sloughing in the coats. ("Lancet," Dec. 27, 1845, p. 700; "Edinburgh Monthly Journal," Dec. 1851, p. 532.) Perforation of the stomach is rare as an effect of this poison; there is, I believe, only one case on record. Appearances like those just described, have been seen in the alimentary canal, not only where the case has terminated fatally in a few hours, but where it has been protracted for six, eight, and even eleven days.

The *smallest* dose which is reported to have destroyed life is *three* grains. This was in the case of a child, and the quantity was accurately determined from the fact of its having been made up by mistake for three grains of calomel, which a physician intended to order. It is probable that, under favorable circumstances, from three to five grains, or even less, would destroy an adult.

In an acute case a person commonly dies in from one to five days, but death may take place much sooner or later than this. In the shortest fatal case on record the man died in less than *half an hour*, but the quantity of poison was not ascertained. ("On Poisons, Corrosive Sublimate.")

Chemical Analysis.—Corrosive sublimate is usually seen in heavy crystalline masses, or in the form of a white powder. In the *solid* state, 1. When the powder is heated on platinum foil or mica, it melts, and is volatilized in a white vapor without leaving any

residue. 2. When heated in a close tube, it melts and forms a sublimate, consisting of prismatic crystals sometimes stellated. (See illustration, Fig. 10.) 3. The powder is changed in color by the following reagents: iodide of potassium produces a bright scarlet, potash a yellow, and sulphide of ammonium a black compound; ammonia does not alter its color. 4. The mercury and chlorine may be discovered by one process. Mix the powder with four parts of dried carbonate of soda (obtained by incinerating the bicarbonate), until the residue in the reduction tube fuses and becomes white. A sublimate of metallic mercury in distinct and well-defined globules will be obtained. Detach by a file, the end of the tube containing the fused residue, which is chloride of sodium with some undecomposed carbonate. Digest it in water with nitric acid, and apply heat until it is entirely dissolved; then add to the solution nitrate of silver. A white precipitate of *chloride* of silver, insoluble in nitric acid, will be at once produced. The solid is thus proved to contain both mercury and chlorine, and the only compound of these elements which is soluble in water is corrosive sublimate.

Fig. 10.

Stellated crystals obtained by heating corrosive sublimate, magnified 30 diameters.

In *solution* in water. A few drops of the solution of corrosive sublimate evaporated on a glass-slide yield slender opaque silky prisms. When a weak solution of iodide of potassium is dropped on them they acquire a bright scarlet color. This scarlet coloration, which may be obtained from the minutest crystal and only one drop of solution, proves that the body dissolved in water is corrosive sublimate; it is thus distinguished from every other mineral poison, and all other substances whatever. 1. Chloride of tin added to a solution of corrosive sublimate, produces a black precipitate which, after it has been boiled, is resolved into globules of metallic mercury. 2. Sulphuretted hydrogen and sulphide of ammonium produce, after a time, a black sulphide, not soluble in alkalies or diluted acids. 3. If the liquid is acidulated with hydrochloric acid, and bright copper-foil wire or gauze, is plunged into it, the copper will acquire a silvery-white deposit, even in the cold, but more rapidly by heat. When the copper with the metallic deposit is heated in a tube, globules of mercury are sublimed.

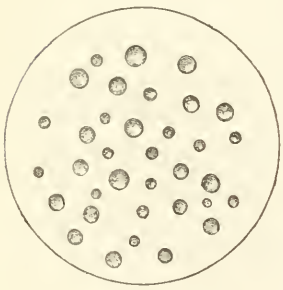
Fig. 11.

Prismatic crystals of corrosive sublimate from a solution in water, magnified 30 diameters.

In Organic Liquids.—The liquid should be separated by filtration from any insoluble portions. The latter should be pressed, dried, and set aside for a separate analysis. The liquid portion should be

slightly acidulated with hydrochloric acid, warmed, and a slip of copper foil or gauze introduced; if this is not immediately coated with mercury, it should be allowed to remain for some hours. When a deposit has taken place on the copper, it should be removed, washed in water, and afterwards in ether and dried. When the quantity of corrosive sublimate dissolved in an organic liquid is moderately large, it may be removed by means of ether. Place the filtered liquid supposed to contain the poison, in a stoppered tube: add to it, twice its volume of pure ether, and agitate the liquid at intervals for a few minutes. Allow the liquid to subside, pour off the ether into a dial-glass, and submit it to spontaneous evaporation. As the ether passes off, the corrosive sublimate will be deposited in white silky-looking prisms. These may be purified, if necessary, by solution in water or alcohol, and the solution again crystallized. Corrosive sublimate may thus be separated from arsenic and other mineral poisons in solution. If mercury and arsenic are associated in a poisonous mixture, or in the tissues, the arsenic may be entirely removed by distillation (page 120). Masses of corrosive sublimate may be sometimes locked up in thick viscid mucus; and in such cases, the coarse powder being heavy, it may be separated by simply agitating the viscid liquid in water, and then decanting the upper portion suddenly. This poison is decomposed and precipitated by many organic principles, such as albumen, fibrin, mucous membrane, also by gluten, tannic acid, and other vegetable substances. Thus, then, we cannot always expect to find it in the stomach, in a state of solution. Other methods of analysis are chiefly directed to the separation of the mercury only. The suspected liquid is boiled, filtered, and acidulated with hydrochloric acid. 1. To one portion add chloride of tin in excess, again boil the liquid and filter to separate the mercury, the whole of which is precipitated as a black powder, or in gray globules. On boiling this deposit in strong hydrochloric acid, the small globules coalesce to form liquid mercury. 2. Into another portion of the liquid, introduce copper-gauze, foil, or wire, and gently warm it. The copper is covered with a layer of silvery-white metal, either immediately or in a few hours. A large quantity of copper may be thus coated. The coated copper should be digested in warm alcohol or ether, dried and heated in a reduction-tube, when a sublimate in silvery-white globules will be obtained, well marked by their opacity, lustre, and sphericity when examined by the microscope. (See illustration, Fig. 12.) The sublimate of metallic mercury differs from that of arsenic in the fact that when heated, it sublimes simply as metal without change. It is not oxidized (like metallic arsenic), by heating it in a reduction-tube, but is simply transferred with its metallic lustre and globular form from one part of the tube to another. In

Fig. 12.



the event of a doubt existing respecting the nature of the sublimate, the following experiment will remove it. Cut off by a file the portion of glass on which the globules are deposited: introduce this into a wide short tube, with a few drops of hydrochloric and half the quantity of nitric acid. Heat the acid liquid, and carry it to dryness on a sand-bath. White prismatic crystals of corrosive sublimate will remain, if the sublimate was of a mercurial nature, and too great a heat has not been applied. On touching the white residue cautiously with a drop of solution of iodide of potassium, the crystals will acquire a scarlet-red color.

In place of copper, a slip of gold foil may be wound round a slip of zinc foil, and introduced into the liquid. The gold is soon covered with a silvery-white layer of mercury, which may be separated from it by heat in a reduction-tube, or by the action of nitric acid, and the nitrate thus formed may be subsequently tested by the chloride of tin.

The Tissues.—Insoluble substances suspected to contain mercury, as well as the soft organs, *e. g.*, liver and kidney, may be cut up and boiled in one part of hydrochloric acid and four of water until dissolved. The mercury may then be separated by either of the above processes. The analysis may show the presence of *mercury*, but not of corrosive sublimate, in the body. Whether the mercurial compound had acted as a poison or not, must be determined from symptoms and appearances: whether it had been given or taken as a medicine or not, is a conclusion which must also be determined from other circumstances. The proof that the mercury was really in the form of corrosive sublimate, could only be derived from the discovery of some undissolved portions of the solid poison in the stomach or its contents, or from a separation of the poison itself by means of ether. If thus obtained after filtration of an organic liquid, it would show its presence in the form of a soluble salt: and it may be remarked that all the soluble salts are poisonous, and are rarely used internally as medicines. If undissolved, the absorbed mercury may have been derived from some mercurial medicine innocently taken by the deceased. Nothing is more common than to discover traces of mercury in the stomach, bowels, liver, kidneys, or other organs of a dead body. No importance can be attached to this discovery in the absence of evidence that the deceased has actually suffered from symptoms of mercurial poisoning. As to the mercury found in the *tissues*, it may have been derived from a soluble or insoluble compound, or from exposure to the vapors of the metal or of its salts, in various trades.

White Precipitate.

Ammoniated Mercury.—The symptoms which it produces are violent vomiting, cramps, great thirst, purging and pain in the stomach and bowels, with convulsions. Tenderness of the gums and salivation have been observed among the symptoms. After death there is more or less inflammation of the stomach and bowels. Experiments on

dogs and rabbits have shown that this is a formidable poison. The greater number of recoveries have been probably owing to the substance being early ejected by vomiting. Rabbits, which do not vomit, were killed by a dose of four and five grains in a few hours. After death, mercury was found deposited in various organs, but more in the kidneys than in the other viscera. For additional facts connected with the action of this poison see "Guy's Hosp. Reports," October, 1860, p. 483.

Analysis.—White precipitate is a chalky-looking compound containing about eighty per cent. of mercury. It is insoluble in water and alcohol. As it is sold in the shops it frequently contains as an impurity corrosive sublimate to the amount of one or two per cent. It is not used internally, but it is much employed by the poorer classes in the treatment of ringworm. It is soluble in acids, is not blackened by alkalies, and it yields a mercurial sublimate when heated with carbonate of soda. Chloride of tin produces with it a black deposit of mercury. If boiled in a solution of potash, it evolves ammonia, and yellow oxide of mercury is precipitated. It may be detected in organic fluids and solids by boiling them in one part of hydrochloric acid and four parts of water. The mercury may then be separated by means of copper.

Red Precipitate.

Red Oxide of Mercury.—This substance is poisonous, but instances of poisoning by it are very rare. One case occurred at Guy's Hospital in 1833. The patient recovered in four days.

Analysis.—By its great weight and insolubility in water, it may be separated from all liquids. Its red color identifies it. When heated in a close tube, it is resolved into oxygen and mercury, which is deposited in globules.

Other compounds of mercury, such as calomel, the nitrates, sulphates, the cyanides, sulpho-cyanide, and sulphide have given rise to accidents, and in a few instances have destroyed life, but they rarely require the notice of the practitioner.

A new form of mercurial poisoning, however, has been brought to light by a fatal accident which occurred at St. Bartholomew's Hospital in 1865, and this, from its exceptional character, is deserving of a short notice.

Mercuric Methide or Methyl.

Symptoms.—In February, 1865, a chemical assistant in the laboratory of St. Bartholomew's Hospital, who had been engaged for nearly three months in preparing mercuric methide, and who had been thus exposed to breathe the noxious vapors evolved in the process, was seized with dimness of sight, numbness of the hands, deafness, great weakness, swelling and tenderness of the gums; he moved his arms and legs with difficulty, and could not stand without support. In spite of treatment he became worse; an offensive odor

issued from his breath and body, he became at times maniacal, and he died eleven days after his admission into the hospital.

Appearances.—The brain was congested, especially the gray matter, and there was congestion of the liver and kidneys. As none of the liquid had been swallowed, there was no appearance in the stomach and bowels calling for special notice.

Another assistant who had been exposed to the noxious vapors for a shorter time, suffered from similar symptoms. He had offensive breath, spongy gums, general impairment of the senses, and an affection of the brain producing idiocy, in which state he remains. ("St. Bartholomew's Hospital Reports," Oct. 1865; also "Chem. News," Nov. 3, 1865, p. 213.)

The mercuric methide is a heavy colorless liquid containing 87 per cent. of mercury. Its effects on the nervous system are more intensified than those observed among workmen who have been engaged in water-gilding. It would have been more satisfactory had it been determined whether mercury was present in the tissues of the person who died from the effects of the vapor.

CHAPTER XIII.

ON POISONING WITH LEAD.—SUGAR OF LEAD.—SYMPTOMS.—APPEARANCES AFTER DEATH.—CHEMICAL ANALYSIS.—LEAD IN ORGANIC MIXTURES.—CARBONATE OR WHITE LEAD.—CHRONIC POISONING.—POISONING WITH COPPER.—BLUE VITRIOL.—SYMPTOMS.—APPEARANCES.—CHEMICAL ANALYSIS.—COPPER IN ORGANIC LIQUIDS.

Sugar of Lead.

Acetate of Lead. Symptoms.—Acetate or sugar of lead is by no means an active poison. In medical practice it has often been given in considerable doses without any serious effects resulting. When it has been taken in a dose of from one to two ounces, the following symptoms have been observed: a burning pricking sensation in the throat, with dryness and thirst, vomiting and uneasiness at the pit of the stomach, followed by severe colic. The abdomen is tense, and the skin covering it is sometimes drawn in. The pain is relieved by pressure, and has intermissions. There is generally constipation of the bowels. If any feces are passed, they are commonly of a dark color, indicative of the conversion of a portion of the lead into sulphide. The skin is cold, and there is great prostration of strength. When the case is protracted, the patient has been observed to suffer from cramp in the calves of the legs, pain in the inside of the thighs, numbness, and sometimes paralysis of the limbs. The affection of the nervous system is otherwise indicated by giddiness, torpor, and even coma. A well-marked blue line has been noticed round the

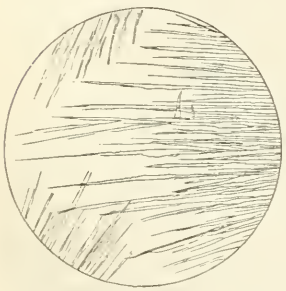
margin of the gums, where they join the teeth. For a remarkable series of cases of poisoning by acetate of lead which has been reported by Mr. Bancks, of Stourbridge, see "Lancet," May 5, 1849, p. 478.

Appearances.—In one acute case the mucous membrane of the stomach was found removed in several places, especially near the intestinal opening; and most of the intestines were in a state of high inflammation. In animals, according to Dr. Mitscherlich, when the dose is large, the mucous coat of the stomach is attacked and corroded; this change appears to be purely chemical, and takes place in those parts of the body with which the salt of lead comes in contact. If given in a small dose, it is decomposed by the gastric secretions, and exerts no corrosive action on the mucous membrane. When the acetate of lead was given in a state of albuminate dissolved in acetic acid, death took place with great rapidity; but on inspection, the stomach was not found corroded. This corrosive action belongs to the neutral salt, and is not manifested when the dose is small, or when the poison is combined with an acid.

Nothing is actually known concerning the *fatal dose* of this substance; but it may be taken in comparatively large quantity without producing serious effects. Thirty or forty grains have been given daily in divided doses without injury.

Chemical Analysis. Acetate of Lead as a Solid.—1. If a portion of the powder is heated in a small reduction-tube, it melts, then becomes solid: again melts, acquiring a dark color, and gives off vapors of acetic acid, easily recognized by its odor and reaction on litmus paper. A black mass is left in the tube, consisting of carbon and reduced metallic lead. No sublimate is formed. If heated on mica, yellow oxide of lead with reduced metal remains. 2. It is very soluble in water, even when cold; spring water is turned milky by it, from the presence of carbonic acid and sulphates. 3. A small portion of the powder dropped into a solution of iodide of potassium acquires a bright yellow color. 4. When dropped into solution of potash it remains white. 5. Into sulphuretted hydrogen water or sulphide of ammonium, it is turned black, in which respect it resembles the white salts of some other metals. 6. When the powder is boiled in a tube with diluted sulphuric acid, acetic acid, known by its odor and volatility, escapes. All these properties taken together, prove that the salt is the acetate of lead.

Fig. 13.



Crystals of acetate of lead, magnified 30 diameters.

Acetate of Lead in Solution.—1. A small quantity, slowly evaporated on a glass slide, will give slender white prismatic crystals, which are turned yellow by iodide of potassium, and black by sulphide of ammonium. 2. *Diluted sulphuric acid* produces an abundant white precipitate, insoluble in nitric acid, but soluble in hydrochloric acid and in a large excess of potash.

3. It is precipitated of a bright yellow color by the *iodide of potassium;* the yellow iodide of lead is soluble in potash, forming a colorless solution. It is also dissolved by concentrated hydrochloric acid. 4. *Sulphide of ammonium* or sulphuretted hydrogen gas, produces a deep black precipitate, even when less than the 100,000th part of the salt is dissolved. 5. Place a few drops of the solution on clean platinum foil, acidulate it with acetic acid, then apply through the solution, to the surface of the platinum, a thin polished slip of zinc:—crystals of metallic lead are instantly deposited on the zinc: by this method, a small quantity of the metal may be detected and collected.

Lead in Organic Liquids.—The acetate of lead is precipitated by many organic principles, especially by albumen and tannic acid. Thus, we may have to analyze either an organic liquid containing lead, or a solid precipitate consisting of mucus or mucous membrane, or albumen intimately united to oxide of lead. The liquid should be filtered and examined by a trial test, *i. e.*, either by adding to a portion, sulphuric acid, when sulphate of lead is precipitated, or by exposing bibulous paper, dipped into the suspected liquid, to a free current of sulphuretted hydrogen gas. If the paper is not stained brown, there is no perceptible quantity of lead dissolved; if it is stained brown, we dilute the liquid if necessary, in order to destroy its viscidity, and pass into it a current of washed sulphuretted hydrogen gas until all chemical action has ceased. The black sulphide of lead should be collected on a filter, washed and dried, then boiled for a quarter of an hour in a mixture of one part of nitric acid, diluted with four parts of water. This has the effect of transforming it, at least in part, into nitrate of lead soluble in water. This liquid, when filtered, may be evaporated to dryness, the crystalline residue dissolved in water, and the tests for lead then applied to the solution. If the quantity is too small for the application of all the tests, we may first add sulphuric acid; should a white precipitate be formed, soluble in potash (free from oxide of lead), and this alkaline solution be again turned black by sulphide of ammonium, this is sufficient evidence of the presence of lead. Should there be no lead dissolved, we must decompose the solid and insoluble matters by boiling them in nitric acid slightly diluted, filter, and test the filtered liquid, previously neutralized; or we may evaporate at once to dryness, destroy the organic matter by heat, and redissolve the residue in nitric acid for testing.

In the Tissues.—The organic matter, such as a part of the liver or other organ, should be dried and incinerated in a porcelain vessel. The ash should be heated with a small quantity of strong nitric acid, and then evaporated to dryness. The dry residue should be digested in a small quantity of distilled water (free from lead), filtered, and after it has been slightly acidulated with nitric acid, a current of washed sulphuretted hydrogen gas should be passed into it. The production of a brown color or a brown precipitate in a slightly acid liquid, indicates the presence of lead. Lead may be detected in the dry residue of urine and of spring or river water.

Goulard's Extract is a solution of subacetate of lead, the oxide of

the metal being in excess; and *Goulard water* is a mixture of one drachm and a half of this solution with a pint of water. The effects of these compounds when swallowed or applied locally are similar to those caused by the acetate.

White Lead. *Carbonate of Lead.*—This is an insoluble chalky-looking compound, which, like other salts of lead, may give rise to the usual symptoms of lead poisoning. In one instance it appears to have proved fatal. Most of the cases of poisoning by that substance have been of a chronic character, carbonate of lead being one of the products of the action of water upon lead.

Chronic Poisoning.—Colica pictonum, or Painter's Colic, may be considered as the chronic form of poisoning by carbonate of lead. The *symptoms* are usually well marked. There is at first pain with a sense of sinking commonly in or about the region of the navel (the seat of the colon). Next to pain there is obstinate constipation, retraction of the skin and abdomen, loss of appetite, thirst, fetid odor of the breath, and general emaciation, with paralysis of a peculiar kind affecting the extensor muscles, and causing a dropping of the wrist, or showing itself in a general paralysis of the limbs. The skin acquires a sallow or earthy color, generally well marked in the face, and the patient experiences a sweetish, styptic, or astringent taste in the mouth. A symptom of a peculiar nature was first pointed out by the late Dr. Burton ("Med. Gaz.," vol. 25, p. 687), namely, a *blueness* of the edges of the *gums*, where these join the bodies of the teeth; the teeth are of a brownish color. The blue line on the gums may be regarded as a distinguishing sign of lead-colic. Chronic poisoning with lead often kills the patient, since a great amount of mischief is done before the cause is discovered. The only *appearances* found after death have been a contraction of the cavity of the large and small intestines, and a considerable thickening of the coats. Then changes have been especially noticed in the colon—the seat of colic. The various circumstances under which this form of poisoning is liable to occur are elsewhere fully described. (See "On Poisons," also "Principles of Med. Jur.," 1865.) Cases of poisoning are sometimes observed as the result of the introduction of *oxide of lead* into the system through wine, beer, cider, milk, and other liquids. Earthenware glazed with litharge imparts oxide of lead to fat in dripping, also to acid liquids. Snuff is sometimes adulterated with *red lead*, to improve its color, and some cases of lead poisoning have occurred from the use of such snuff. A spurious tinfoil, consisting chiefly of lead faced with tin, is much used as a covering or wrapper for articles of food. When exposed to damp, this metallic alloy undergoes chemical changes whereby carbonate of lead is produced. Children's farinaceous food has thus become impregnated with lead. [During the present year (1866), whole families, in one of the counties of the State of New York, have been poisoned by the use of flour manufactured at a mill, the owner of which had been in the habit of filling the cavities in the millstones with lead.—P.]

Poisoning with Copper.

All the salts of copper are poisonous. The two most commonly known in commerce are the Sulphate or Blue Vitriol, and the Subacetate or Verdigris.

Blue Vitriol. *Sulphate of Copper. Symptoms.*—Sulphate of copper has been frequently given for the purpose of procuring abortion. In doses of half an ounce and upwards, it acts as a powerful irritant on adults, and a much smaller quantity would suffice to destroy infants or children. The salt speedily causes vomiting of the most violent kind; this sometimes expels the poison from the stomach, and the person recovers. There is headache, pain in the abdomen, with purging; the pain is of a colicky character; and in aggravated cases, there are spasms of the extremities and convulsions. Dr. Perceval met with an instance in which violent convulsions were produced in a young woman by two drachms of the sulphate of copper. Paralysis, insensibility, and even tetanus, have preceded death, when the poison was administered to animals. Among the symptoms casually met with in the human body, may be mentioned jaundice. This has been observed to attend poisoning by the sulphate, as well as by Scheele's green. The *vomited* matters are remarkable for being generally of a *blue* or *green* color; broken crystals of blue vitriol were discovered in them, in a case in which the poison was taken in the state of coarse powder. If the green color of the vomited liquid is owing to altered bile, it will not acquire a blue tint on adding to a portion of it a strong solution of ammonia; but if caused by a salt of copper, this change of color will serve to indicate the fact. The medicinal dose of sulphate of copper as an emetic, is from five to fifteen grains, and as a tonic from one to three or four grains.

Appearances.—In the few fatal cases which have been hitherto examined, the mucous membrane of the stomach and intestines has been found more or less thickened and inflamed, and in some cases eroded and softened. The gullet has presented an inflammatory appearance. In one case of poisoning by verdigris the stomach was inflamed and thickened, especially towards the intestinal opening, the orifice of which, from the general thickening, was almost obliterated. The small intestines were throughout inflamed, and perforation had taken place, so that part of the green liquid was effused into the abdomen. The large intestines were distended in some parts, and contracted in others, and the rectum was ulcerated on its inner surface. ("Orfila Toxicologie," vol. 1, p. 623.) The lining membrane of the alimentary canal has been found throughout of a deep green color, owing to small particles of the copper salt (verdigris) adhering to it.

Chemical Analysis.—The salts of copper, whether in the solid state or in solution, are generally known by their blue or green color. *Tests.*—1. *Solution of ammonia:* this gives, in a solution of a salt of copper, a bluish-white precipitate, which is soluble in excess of the test, forming a deep violet-blue liquid. 2. *Ferrocyanide of potassium*

gives in a very diluted solution a rich claret-red precipitate; if the quantity of copper is small, the liquid acquires merely a light-red color; if large, the precipitate is of a deep red-brown color, and of a gelatinous consistency. The ferrocyanide of potassium will act on the violet-blue solution produced by ammonia, provided it is diluted, and a few drops of diluted sulphuric acid are added in order to neutralize the ammonia. One portion of the liquid may thus be tried by the two tests. 3. *Sulphuretted hydrogen gas*, or sulphide of ammonium, gives a deep chocolate-brown precipitate, even in an acid solution; or if the copper is in small proportion, merely a light-brown color. 4. A slip of *polished iron* (a common needle) suspended by a thread in the liquid slightly acidulated with sulphuric acid is speedily coated with a red layer of copper, even when the salt is in very small proportion. If the needle is left some days in the liquid, the iron will be slowly removed, and a hollow cylinder of metallic copper will remain. This may be dissolved in diluted nitric acid, and tested with the foregoing tests; or the iron coated with copper, may be at once immersed in ammonia and exposed to air. The liquid then becomes slowly blue. Half a grain of sulphate of copper dissolved in sixteen ounces of water may be thus easily detected. It was long since proposed by Orfila to substitute phosphorus for polished iron. This substance most effectually separates metallic copper from its salts, even when they are dissolved in organic liquids. 5. *The Galvanic Test.*—If a few drops of the copper solution are placed on platinum-foil, slightly acidulated with a diluted acid, and the platinum is then touched through the solution with a slip of zinc-foil, metallic copper, of its well-known red color, is immediately deposited on the platinum. When the quantity of copper is small, there is merely a brown stain; but a blue liquid is formed by pouring on it ammonia, and exposing it to air. A coil of fine platinum and zinc wire may be substituted for the foil.

Copper in Organic Liquids.—The oxide of copper is liable to be precipitated by certain organic principles, *e. g.*, albumen, fibrin, and mucous membrane: but some of these organic compounds are easily dissolved by acids, or even by an excess of the solution of cupreous salt. A portion at least of the salt of copper is, therefore, commonly held dissolved. In such cases the liquid is usually of a *greenish color*, and has a strong coppery or metallic taste, even when the copper salt is in far less than a poisonous proportion. Having filtered the organic liquid, let a portion of it be placed in a clean platinum capsule or crucible. A few drops of diluted sulphuric acid may be added, and a slip of zinc foil introduced. Wherever the platinum is touched by the zinc, metallic copper is deposited; and after having in this way coated the platinum capsule, the surplus liquid may be poured off and the capsule well washed out. The deposited copper is then dissolved in nitric acid, and the tests may be applied after the excess of acid has been driven off by heat, and the residue dissolved in water.

In the Tissues.—Dry and incinerate the organic matter. Digest the residuary ash in pure hydrochloric acid by heat, and then evaporate

nearly to dryness. The residue may be dissolved in a small quantity of water, and a polished needle immersed for some hours. The metallic deposit, if any, on the needle, may be recognized as copper, either by its color or by the action of ammonia. Traces of copper have been found in many kinds of food as well as in the tissues of the body, irrespective of the introduction of a copper salt as a poison.

CHAPTER XIV.

TARTAR EMETIC.—SYMPTOMS.—APPEARANCES.—CHRONIC POISONING.—CHEMICAL ANALYSIS.—CHLORIDE OR BUTTER OF ANTIMONY.—POISONING WITH SALTS OF ZINC AND IRON.

Tartar Emetic.

Stibiated Tartar, Tartarated Antimony. Symptoms and Effects.—When tartar emetic is taken in a poisonous dose, a strong metallic taste is perceived in the mouth during the act of swallowing. There is great heat and constriction of the throat, with difficulty of swallowing, violent burning pain in the region of the stomach, followed by incessant vomiting, profuse purging, faintness, and extreme depression. The pulse is small and rapid, sometimes imperceptible; the skin cold, and covered with a clammy perspiration; and the respiration is painful. Should the case prove fatal, death may be preceded by giddiness, insensibility, great prostration of strength, and sometimes violent spasms of the muscles of the limbs, which may assume either a clonic or a tetanic character. Such are the symptoms in an acute case of poisoning by this substance. The *quantity* actually required to destroy life is unknown. One drachm taken at a dose proved fatal in ten hours, in spite of early and frequent vomiting. ("Med. Gaz." vol. 45, p. 801.)

Appearances.—The following cases show the nature of the appearances likely to be found after death. Two children, a boy aged five years, and a girl aged three years, each swallowed a powder containing *ten grains* of tartar emetic mixed with a little sugar. It was stated that, in twenty minutes after taking the powders, they were seized with violent vomiting and purging, and great prostration of strength, followed by convulsions and tetanic spasms; there was also great thirst. The boy died in eight hours, and the girl in twelve or thirteen hours after swallowing the dose. The bodies were inspected between four and five days after death. In that of the boy there was effusion of serum in the right pleura; the lower lobe of the right lung posteriorly was redder than natural, and the peritoneum was injected from recent inflammation. The mucous membrane of the duodenum was inflamed, and covered with a whitish-yellow viscid secretion; this was observed throughout the intestines, although the

color was of a deeper yellow in the large intestines; there was no ulceration. The peritoneal coat of the stomach was inflamed. The mucous membrane of this organ was also much inflamed, especially about the larger curvature and at the cardiac orifice; there was no ulceration. The contents (about two ounces and a half of dark bloody fluid, having a slightly acid reaction) were adherent to it; and in one case there was a patch of lymph. The tests used did not indicate the presence of antimony. With regard to other appearances, the tongue was covered with a white fur, and appeared sodden; the throat was not inflamed; the windpipe and gullet had a natural appearance. On opening the head the dura mater was found congested; the longitudinal sinus contained a coagulum of lymph, and but little blood. The vessels of the surface of the brain were much injected with dark blood, the whole surface having a deep purple color. Every portion of the brain, when cut, presented many bloody points. The cerebellum and medulla oblongata were also congested; there was no effusion in the ventricles or at the base of the brain. In the body of the girl the morbid appearances were similar; there was in addition on the arms, legs, and neck, patches resembling the eruption of scarlatina. The arachnoid membrane was more opaque than usual; and on the mucous membrane of the stomach, where the inflammation was greatest, were two or three white spots, each about the size of a split pea, which appeared to be the commencement of ulceration. ("Lancet," April 25, 1846, 460.)

In cases of *chronic poisoning* by this substance the principal symptoms are as follows: great nausea, vomiting of mucus and bilious liquids, great depression, watery purging, followed often by constipation of the bowels, small, contracted, and frequent pulse, loss of voice and muscular strength, coldness of the skin, with clammy perspiration, and death from complete exhaustion. Several cases have occurred in this country, which show that tartar emetic has been thus criminally employed.

Chemical Analysis. Tartar Emetic as a Solid.—In the state of powder it is white and crystalline. 1. It is easily dissolved by water—it is taken up by fourteen parts of cold, and two of boiling water; the solution has a faint acid reaction, and an acrid metallic taste; it is not very soluble in alcohol. 2. The powder dropped into sulphide of ammonium is turned of a deep reddish-brown color, and is thereby known from other poisonous metallic salts. 3. When heated in a reduction-tube, it is charred, but does not melt before charring, like the acetate of lead. The metal is partially reduced by the carbon of the vegetable acid, and the decomposed mass has a grayish-blue metallic lustre. No metallic sublimate is produced in this experiment by the heat of a spirit-lamp. 4. When boiled in water containing one-sixth of pure hydrochloric acid and metallic copper is immersed in the liquid, a gray deposit of antimony takes place on this metal. The color of the deposit is violet red if the quantity is very small, but the deposit is black and pulverulent if very large. 5. The solution acidulated with one-tenth part of hydrochloric acid gives in the cold a black deposit on a surface of pure tin. A slip of pure tin-

foil may be used in this experiment. This serves to distinguish antimony from arsenic.

Tartar Emetic in Solution.—1. On slowly evaporating a small quantity on a slip of glass, it will crystallize in *tetrahedra*, and in derivatives of the octahedron. If obtained from a very diluted solution, this crystallization is confused, and resembles that of arsenic. 2. *Diluted nitric acid*, added to the solution, throws down a white precipitate (sub-nitrate of antimony); the other two mineral acids act in the same way; but, as they precipitate numerous other metallic solutions, there are objections to them which do not hold with respect to nitric acid. The white precipitate thus formed possesses the remarkable property of being easily and entirely dissolved by a solution of tartaric acid: it is also soluble in a large excess of nitric acid, so that if much of the test be added at once, no precipitate is produced. 3. *Ferrocyanide of potassium* does not precipitate the solution, whereby tartarized antimony is known from most other metallic poisons. 4. *Sulphide of ammonium* or *sulphuretted hydrogen gas*, produces in the solution a reddish orange-colored precipitate, differing in color from every other metallic sulphide. The precipitate is not readily soluble in ammonia or tartaric acid, but it is dissolved in the dry state by strong hydrochloric acid. The only test available when the quantity of tartarized antimony present is small, is a current of sulphuretted hydrogen gas.

Fig. 14.

Crystals of Tartar Emetic magnified 30 diameters.

In Liquids containing Organic Matter.—Tartar emetic is precipitated by tannic acid in all its forms, but not readily by albumen or mucous membrane; therefore it may be found sometimes dissolved in the liquids of the stomach, and sometimes precipitated. The insoluble compounds of antimony are very soluble in tartaric acid, and thus if there should be no antimony dissolved, it may easily be brought into a state of solution by means of this acid. The liquid, acidulated with tartaric acid, should be filtered, and a current of sulphuretted hydrogen gas passed into it, until there is no further precipitation. The sulphide is collected, washed, and dried. If it is the sulphide of antimony, it will have an orange-red or brown color, it will be insoluble in a solution of ammonia, and when dried, will be dissolved by a small quantity of boiling hydrochloric acid (forming chloride of antimony) with the evolution of sulphuretted hydrogen gas. The boiling should be continued for several minutes until the liquid is colorless. On adding this solution, if not too acid, to water, a white precipitate of oxychloride of antimony (powder of Algaroth or Algarotti, *Mercurius Vitæ*) falls down. This is characteristic of antimony.

The following method of detecting this metal when dissolved in any organic liquid, is based upon the principle by which copper and

other metals may be detected under similar circumstances. 1. Acidulate a portion of the suspected liquid with hydrochloric acid, and place it in a shallow platinum capsule. Touch the platinum, through the acid liquid, with a slip of pure zinc foil. Hydrogen is evolved, and wherever the metals come in contact, metallic antimony, in the state of a black powder, is deposited upon the surface of the platinum. The liquid should be poured off, and the capsule thoroughly washed with distilled water. This may be effected without disturbing the deposit. A small quantity of sulphide of ammonium poured on the black deposit, speedily dissolves it (if antimony) by the aid of heat, and on evaporation, an orange-red sulphide of antimony remains. This may be dissolved in a few drops of strong hydrochloric acid, and on adding the acid liquid to water, hydrated oxychloride of antimony is precipitated. 2. The black deposit may be treated with strong nitric acid—evaporated to dryness—the white residue dissolved in strong hydrochloric acid and this solution, not too much diluted, may be precipitated by a current of sulphuretted hydrogen. A reddish-colored sulphide indicates antimony. By this process antimony in small quantity may be detected in any liquid containing organic matter. If no deposit take place under these circumstances —a slip of zinc or tin-foil with a layer of thin platinum foil wound round it, should be suspended in the acid liquid sufficiently diluted for some hours. If antimony is present it will be deposited on both metals as a black powder.

In the Tissues.—The antimony may be in so small a quantity, as it is deposited in the organs, that neither the sulphuretted hydrogen nor the galvanic process will yield any satisfactory results. The liver or other organ should be cut into small pieces and boiled in a mixture of one part of hydrochloric acid, and five parts of water. After some time, the liquid may be tested by introducing into it a slip of polished copper foil free from antimony. If antimony is present in small quantity, the copper will acquire a reddish or violet-colored deposit on its surface: if in large quantity, the deposit will be gray with a metallic lustre, or sometimes in the state of a loose black powder. These deposits when heated in a reduction-tube, do not yield octahedral crystals like those obtained from arsenic. A slip of pure tin-foil may be suspended in the cold in another portion of the acid liquid, diluted so that the hydrochloric acid forms only one-tenth part by measure. Either immediately, or in the course of a few hours, if antimony is present, the tin is covered with a black deposit of metallic antimony. As arsenic is not deposited on pure tin under similar circumstances, this furnishes a ready method of detecting the admixture of antimony with arsenic.

The separation of antimony from the tissues does not necessarily indicate that it has been criminally administered or has caused death; but its presence there should be reasonably accounted for, as antimony may have been unlawfully administered. In several cases of suspected death from poison, deposits on copper, evidently of an antimonial nature, have been obtained from the liver or tissues. On

inquiry it has been found that antimonial medicines had been taken shortly before death.

Chloride or Butter of Antimony.—This is a strongly corrosive poison by reason of the acid with which the antimony is combined. It has caused death in several instances. The symptoms and appearances resemble those produced by concentrated hydrochloric acid.

Poisoning with Zinc.

Sulphate of Zinc. White Vitriol. Symptoms and Appearances.—The symptoms produced by an over-dose of sulphate of zinc are pain in the abdomen and violent vomiting, coming on almost immediately, followed by purging. After death the stomach has been found inflamed. The sulphate appears to act as a pure irritant; it has no corrosive properties. This salt may cause death indirectly as the result of exhaustion from violent vomiting, when an ordinary dose has been given to a person already debilitated by disease.

Chloride of Zinc. Symptoms and Appearances.—This which is commonly sold under the name of "Sir W. Burnett's fluid" is a corrosive poison, and is much used as a deodorizer. The patient experiences a sense of heat and burning in the mouth and throat, in the act of swallowing the liquid, which has been frequently fatally mistaken for fluid magnesia. There is a burning and griping pain in the stomach, nausea followed by violent retching and vomiting—the vomited matters being streaked with blood and mixed with much flaky mucus, with shreds of mucous membrane. This has produced an appearance of frothiness about the mouth. Violent purging has been observed among the symptoms. A stage of collapse supervenes, and the skin becomes cold and livid.

After death from this poison the lining membrane of the mouth and throat has been found white and opaque, that of the stomach has sometimes been hard and leathery, at others corrugated, opaque, and of a dark leaden color. The lungs and kidneys are congested. The chloride is both a corrosive and irritant poison, exerting also a peculiar action on the nervous system. If a person survives the acute stage, he may die in the chronic stage from stricture of the gullet or pylorus, or from emaciation and exhaustion as a result of the local action of the poison on this organ.

Analysis.—In these two compounds the zinc is detected by the aqueous solutions giving white precipitates, with a current of sulphuretted hydrogen gas, while the sulphuric acid or chlorine may be recognized by their respective tests.

Preparations of Iron.

Sulphate of Iron. Copperas. Green Vitriol.—This compound has been several times administered with malicious intention. One death from it took place in 1837–8. It cannot, however, be an active preparation; for a girl who swallowed an ounce of it recovered, although she suffered for some hours from violent pain, vomiting, and purging.

("Christison on Poisons," p. 506.) Green vitriol or copperas is sometimes given as an abortive. At the Nottingham Autumn Assizes, 1859, a woman of the name of *Riley* was indicted for administering copperas to two children. She put the substance into gruel. It gave to the gruel a greenish color and a peculiar taste, which led to the discovery. It caused sickness, but no other serious symptoms. As there was no evidence of an intent to murder, and it was then not unlawful to administer poison with any other intent, the prisoner was acquitted. This salt has been much used for criminal purposes in France. (See "Medical Gazette," vol. 47, p. 307; also "Ann. d'Hyg.," 1850, vol. 1, pp. 180, 416; and 1851, vol. 1, p. 155; vol. 2, p. 337.)

Muriate of Iron. Tincture of Perchloride of Iron.—This is an acid solution of perchloride of iron in rectified spirit; it is of a red-brown color, and is much employed as a medicine. It is sometimes made with wood-spirit or methylated spirit, which gives to it a peculiar odor. Dr. Christison relates an instance in which a man by mistake swallowed an ounce and a half of this liquid. The symptoms were somewhat like those produced by hydrochloric acid. He at first rallied, but died in about five weeks. The stomach was found partially inflamed, and thickened towards the intestinal end.

Comparatively small doses of this solution may seriously affect pregnant females, and among the criminal uses to which it has been put, may be mentioned that of procuring abortion. At the Lincoln Lent Assizes, 1863 (*Reg.* v. *Rumble*), a druggist was convicted of having supplied this noxious compound to a woman with the intent to procure her miscarriage. The health of the woman was greatly injured by the administration of this liquid.

These are the principal metallic irritants; but the compounds of tin, silver, gold, bismuth, and chromium have also an irritant action. Cases of poisoning by these substances are, however, very rare.

VEGETABLE AND ANIMAL IRRITANTS.

CHAPTER XV.

VEGETABLE IRRITANTS.—ALOES.—SAVIN.—CROTON OIL.—COLCHICUM.—HELLEBORE.—ANIMAL IRRITANTS.—CANTHARIDES.—NOXIOUS ANIMAL FOOD.—[TRICHINIASIS.]

General Remarks.—The poisonous substances of an irritant nature which belong to the vegetable kingdom are very numerous as a class; but it will here be necessary to notice only those which have either caused death, or have given rise to accidental poisoning.

Aloes. Colocynth. Gamboge. Jalap. Scammony.—These different substances, which are used in small doses as medicines, are liable, when taken frequently or in large quantities, to excite severe vomiting, purging, and other symptoms of irritation.

Hierapicra (*Holy bitter*) is a popular aloetic compound, and one death is recorded to have been produced by it in 1837–8. There is reason to believe that it is occasionally used for the purpose of procuring criminal abortion. A man was tried and convicted of this offence at the Aylesbury Lent Assizes, 1857 (*Reg.* v. *White*), and the noxious properties of this compound then became a subject of inquiry. The dose, and the condition of the woman to whom it is administered, will of course affect the answer to this question. At the trial above mentioned, it was properly considered to be a noxious substance within the meaning of the statute. The fact that, under the name of *Pulvis Aloes cum Canellâ*, it was formerly admitted into the British Pharmacopœia, cannot justify the mischievous uses to which it may be put. *Hierapicra* is a snuff-colored powder, of an intensely bitter taste. It consists of four parts, by weight, of aloes, and one part, by weight, of powdered canella bark. The proper medicinal dose was formerly fixed at from five to fifteen grains. Its injurious effects on pregnant females are chiefly due to the aloes. This specially affects the rectum, and by contiguity, under violent irritation or purging, may affect the uterus. From the taste and color which it imparts to liquids, it is not probable that it could be taken by a female unknowingly.

Savin (*Juniperus Sabina*).—This is a well-known plant, the leaves of which contain an irritant poison in the form of an acrid volatile oil of a remarkable odor. They exert an irritant action, both in the state of infusion and powder. They yield by distillation a light yel-

low oil, on which the irritant properties of the plant depend. The powder is sometimes used in medicine, in a dose of from five to twenty grains. Savin is not often taken as a poison for the specific purpose of destroying life; but this is occasionally an indirect result of its use as a popular means of procuring abortion. In this manner it appears to have proved fatal in one case in 1837–8. From the little that is known of its effects, it acts by producing violent pain in the abdomen, vomiting, and strangury. After death, the gullet, stomach, and intestines, with the kidneys, have been found either much inflamed or congested. It has no action as an abortive, except, like other irritants, by causing a violent shock to the system, under which the uterus may expel its contents. Such a result can never be obtained without placing in jeopardy the life of a woman; and when abortion follows, she generally falls a victim.

Fig. 15.

Tips of the leaves of Savin magnified 30 diameters.

Croton Oil.—This is an oil extracted from the seeds of the *Croton tiglium*. It is a powerful drastic purgative, producing, in a large dose, severe purging, collapse, and death. A case occurred in Paris, in 1839, in which a man swallowed by mistake two drachms and a half of croton oil. In three-quarters of an hour the surface was cold and clammy, the pulse imperceptible, breathing difficult, and the extremities and face were as blue as in the collapsed stage of cholera. In an hour and a half purging set in; the stools were passed involuntarily, and the abdomen was very sensitive to the touch. The patient complained of a burning pain in the course of the gullet. He died in four hours after swallowing the poison. There was no marked change in the mucous membrane of the stomach. (For another fatal case, see "Pharm. Journal," Feb. 1863, p. 379.)

Meadow-Saffron (*Colchicum*).—Meadow-saffron (COLCHICUM AUTUMNALE) contains a poisonous alkaloid—*colchicina*—the effects of which on animals are similar to those of *veratria*, the alkaloid existing in White Hellebore. The most noxious parts of the plant are the bulbs (or roots) and seeds, but the leaves and flowers have also an irritant action.

Symptoms and Appearances.—The symptoms in cases of poisoning by colchicum are generally well marked. There is burning pain in the throat and stomach, intense thirst, violent vomiting and purging leading rapidly to exhaustion, coldness and clamminess of the skin, excessive depression, and great weakness. The pulse is small, weak, and fluttering, and death appears to take place from complete exhaustion without convulsions or loss of consciousness. Among four cases presenting these symptoms, one person died on the second, one on the fifth, one on the eighth, and one on the fourteenth day. In another case of poisoning by wine of colchicum, the symptoms did

not come on for an hour and a half; there was then copious vomiting of a yellow fluid, severe pain with great tenderness in the abdomen, tenesmus, and thirst. The patient died in forty-eight hours, without being convulsed or manifesting any sign of cerebral disturbance. The chief morbid *appearance* was a patch of redness in the mucous membrane of the stomach, near the cardiac orifice; the intestines were slightly inflamed. The head was not examined. ("Medical Gazette," vol. 10, p. 161; see also Casper, "Ger. Med.," p. 450.) In a case of poisoning by the medicinal administration of colchicum, communicated to me by Mr. Mann, of Bartholomew Close, three and a half drachms of the wine of colchicum were taken in divided doses, and caused death on the fourth day. There was no inflammation of the mucous membrane, but simply extravasation of blood into the mucous follicles. The mucous membrane has been found softened in two cases of poisoning by the tincture. In two other cases, in which an ounce and a half of the *tincture* was taken, and death ensued in forty-eight hours, no morbid appearances were found. (Casper, "Ger. Med.," 1857, p. 451, and see his "Vierteljahrschrift," 1860, vol. 1, p. 1.)

Colchicina.—The noxious properties of colchicum are owing to the presence of this alkaloid, which is remarkable for acquiring a reddish violet color on the addition of strong nitric acid. It may be separated from liquids containing it by a process similar to that described for strychnia. (See STRYCHNIA.)

BLACK, WHITE, AND GREEN HELLEBORE.

Symptoms and Appearances.—According to Wibmer, the roots of the black hellebore possess the greatest activity; but the leaves are also highly poisonous when used in the form of infusion. By long boiling the poisonous properties of the plant are diminished, probably owing to the loss of the volatile principle, which is an acrid oil. The roots and leaves have a local irritant action, producing violent vomiting and purging in small doses, with severe pain in the abdomen, followed by cold sweats, convulsions, insensibility and death. The powdered root, in a dose of a few grains, acts like a drastic purgative. In a case reported by Morgagni, half a drachm of the aqueous extract killed a man, æt. 50, in eight hours. The symptoms were severe pain in the abdomen and violent vomiting. After death the whole of the alimentary canal was found inflamed, but especially the large intestines. (Wibmer, op. cit., HELLEBORUS.) A case is quoted by the same writer, in which a tablespoonful of the finely-powdered root (taken by mistake for rhubarb) caused severe symptoms of irritant poisoning, which did not disappear for four hours. The man recovered on the fourth day. The experiments performed by Orfila on animals, show that this poison acts like a *local* irritant when applied to a wound. (Op. cit., vol. 2, p. 369.) Hellebore is a favorite remedy for worms among quacks and rural doctresses. It is not, therefore surprising that it should be occasionally administered in an overdose, and cause death. In December, 1862, Dr.

Edwards met with a case in which a gentleman had swallowed experimentally one drachm of tincture of green hellebore (*veratrum viride*), equal to twelve grains of the powder. He was found soon afterwards in a collapsed state, features sunk, skin cold, and covered with a profuse clammy sweat, pulse scarcely perceptible. He complained of intense pain in the region of the stomach. There was no purging. These symptoms were relieved by treatment, and the next morning the patient had recovered. ("Med. Times and Gazette," 1863, 1, 5.)

Veratria.—White hellebore owes its noxious properties to the alkaloid *veratria*, which is itself a powerful poison. The late Mr. Callaway communicated to me the following case. A physician prescribed medicinally for a lady, one grain of veratria divided into fifty pills, and three were directed to be taken for a dose. Not long after the dose had been swallowed, the patient was found insensible, the surface cold, the pulse failing, and there was every symptom of approaching dissolution. She remained some hours in a doubtful condition, but ultimately recovered. Supposing the medicine to have been well mixed, and the pills equally divided, not more than one-sixteenth of a grain of veratria was here taken! The common veratria of the shops is sometimes given medicinally, in doses of one-sixth of a grain. Poisoning by veratria is a rare occurrence. I have not met with an instance in which this alkaloid has been administered with criminal intention. With the exception of the case above mentioned, there is no experience of its operation as a poison on man. Judging from its effects on animals, it would cause vomiting and convulsions with insensibility.

Analysis.—In the state in which it is usually seen, it is a brownish-white powder, scarcely soluble in boiling water, but dissolved by alcohol, ether, and benzole. Acids readily dissolve it, forming salts which on evaporation do not yield crystals. The powder has a hot, acrid taste, and if any portion enters the nostrils, it causes most violent sneezing, lasting for some time. Strong nitric acid gives to the powder a light red color, becoming ochreous after a time. Hydrochloric acid, strong, and diluted, with the aid of heat, produces a dingy red tint. The best test for its presence is the dilute sulphuric acid, which by a gentle heat strikes a rich pink color, which is destroyed by a solution of chlorine, but not by chloride of tin. Strong sulphuric acid turns the powder yellow, but on heating the mixture, the color deepens, and finally becomes of a deep red. When the liquid is diluted, this color changes to a dingy yellow.

Veratria differs from *colchicina* in its insolubility in water, as well as in the action of strong nitric and diluted sulphuric acids. Veratria may be brought into solution in organic liquids, by acetic acid and heat. The liquid is treated with potash, and two parts of benzole will yield the alkaloid if present, on decanting and evaporating the benzolic solution. The tests may then be applied to the residue. It has not yet been detected in the tissues. A case occurred in September, 1865, in which death was attributed to the action of veratria criminally administered. The deceased, a woman, was advanced in

pregnancy, and from the medical evidence she died from puerperal convulsions and Bright's disease of the kidney, with effusion of blood on the brain. It was said that veratria was detected in her body and in the urine, but there were no symptoms of poisoning by veratria, and there was no evidence of administration by any one. The chemical analysis was not published or it might have appeared that too great a reliance had been placed upon the tests employed. ("Med. Times and Gazette," Oct. 28, 1865, p. 472.) It was a case of death from natural causes mistaken for poisoning.

Animal Irritants.

Cantharides (Spanish Flies). *Symptoms.*—When cantharides are taken in *powder*, in the dose of one or two drachms, they give rise to the following symptoms: a burning sensation in the throat, great difficulty of swallowing, violent pain in the abdomen, with nausea and vomiting of a bloody mucus: there is also great thirst with dryness of the fauces. As the case proceeds, a heavy dull pain is commonly experienced in the loins, and there is an incessant desire to void urine, but only a small quantity of blood or bloody urine is passed at each effort. The abdominal pain becomes of a violent griping kind. Purging supervenes, but this is not always observed: the matters discharged from the bowels are mixed with blood and mucus, and there is often tenesmus (straining). In these, as well as in the vomited liquids, shining green or copper-colored particles may be commonly seen on examination, whereby the nature of the poison taken, if it has been taken in powder, will be at once indicated. After a time there is priapism, and the genital organs are swollen and inflamed both in the male and female. When the case proves fatal, death is usually preceded by faintness, giddiness, and convulsions. The *tincture* of cantharides produces similar symptoms: they are, however, more speedily induced, and the burning sensation in the stomach and constriction of the throat are more strongly marked: this symptom is often so severe as to render it impossible for the person to swallow; and the act of swallowing gives rise to excruciating pain in the throat and abdomen.

Appearances.—In one well-marked case, the whole of the alimentary canal, from the mouth downwards, was in a state of inflammation. The mouth and tongue seemed to be deprived of their mucous membrane. The ureters, kidneys, and internal organs of generation were also inflamed. In another instance, in which an ounce of the tincture was swallowed, and death did not occur for fourteen days, the mucous membrane of the stomach was not inflamed; but it was pulpy, and easily detached. The kidneys were, however, inflamed. The brain has been found congested, and ulceration of the bladder is said to have been met with. There are few fatal cases reported, in which the appearances have been accurately noted; indeed, the greater number of those who have taken this poison have recovered.

The quantity required to produce serious symptoms, or to destroy life, has been a frequent subject of medico-legal inquiry. The medi-

cinal dose of the tincture is from ten minims gradually increased to one fluidrachm; of the powder from *one* to *two grains*. (Pereira, "Mat. Med." part 2, vol. 2, p. 754.) Doses above these, whether of the powder or the tincture, are likely to be injurious, and to give rise to symptoms of poisoning. The *smallest quantity* of the powder which has been known to destroy life, was in the case of a young woman, quoted by Orfila—the quantity taken was estimated at *twenty-four grains* in two doses. She died in four days; but as abortion preceded death, this may have been concerned in accelerating that event. An *ounce* of the tincture has been known to destroy life. It was taken by a boy, æt. 17, and he died in fourteen days. This, I believe, is the smallest dose of the tincture which has proved fatal.

Chemical Analysis.—For the detection of the powder, M. Poumet recommends that the sediment obtained from the suspected liquids, should be mixed with alcohol spread on sheets of glass, and allowed to evaporate spontaneously to dryness. The shining scales will then be seen, on examining the glass by reflected light, either on one or both surfaces. ("Ann. d'Hyg." Oct. 1842.) As the powder is insoluble in water, some portion of it may generally be obtained by washing and decantation. The sediment may also be examined on a glass-slide with the microscope. If no portion of the powdered flies can be obtained, the suspected liquids or solids should be brought to dryness and the dry residue digested in successive quantities of ether until exhausted. This will dissolve the cantharadine. The ethereal solutions are evaporated to an extract, and some of this extract, spread on oil-silk, may be applied to a thin portion of the skin of the arm or to the lips. The production of a blister, with serum, under these circumstances is considered to indicate the presence of cantharadine. By this method Burruel discovered cantharides in chocolate ("Ann. d'Hyg.," 1835, 1, p. 455). Chloroform has been employed in preference to ether. As the extract contains frequently a green oil and fat, which prevent cantharadine from crystallizing, it has been recommended to employ sulphide of carbon, in order to separate these impurities, the cantharadine not being soluble in the sulphide.

Noxious Animal Food.

Certain kinds of animal food are found to produce, occasionally, symptoms resembling those of irritant poisoning. In some instances this poisonous effect appears to be due to idiosyncrasy; for only one person out of several partaking of the food, may be affected. These cases are of importance to the medical jurist, since they may give rise to unfounded charges of criminal poisoning. In the absence of any demonstrable poison, we must test the question of idiosyncrasy by observing whether more than one person is affected, and whether the same kind of food, given to animals, produces symptoms of poisoning. If, with this latter condition, several persons are affected simultaneously with similar symptoms, we cannot refer the effects to idiosyncrasy; they are most probably due to the presence of an

animal poison. Among the articles of food which have caused symptoms of irritant poisoning, may be mentioned certain shell-fish (mussels), cheese, bacon, sausages, diseased pork, and animal flesh in a diseased or putrescent state.

[1] *Poisonous Fish. Mussels.*—Of all varieties of shell-fish, none have so frequently given rise to accidents as the common mussel. The symptoms which it produces, are uneasiness and sense of weight in the stomach, sensation of numbness in the extremities; heat, dryness, and constriction in the mouth and throat; thirst, shivering, difficulty of breathing, cramps in the legs, swelling and inflammation of the eyelids, with a profuse secretion of tears, and heat and itching of the skin, followed by an eruption resembling nettle-rash. These *symptoms* are sometimes accompanied by colic, vomiting, and purging. They may occur within ten minutes or a quarter of an hour; but their appearance has been delayed for twenty-four hours. There is generally great exhaustion and debility. These symptoms have proceeded from the eating of not more than ten or twelve mussels. Two cases, reported by Dr. Christison, proved fatal, the one in three, and the other in about seven hours. In general, however, especially when there is free vomiting, the patients recover. In the inspection of the two fatal cases above mentioned, no appearance was found to account for death. A case in which two mussels produced, in a boy aged ten, alarming symptoms, followed by an eruption resembling scarlatina and nettle-rash, will be found elsewhere reported ("Guy's Hosp. Reports," Oct. 1850, p. 213). In July, 1860, a number of persons living at Tralee were poisoned under the following circumstances. A woman picked up some mussels which she found at the bottom of the basin of a ship-canal. She distributed them among her neighbors, and during the night, twenty-one persons who had eaten them, were attacked with symptoms of poisoning. Three children died, and six individuals were placed in imminent peril. The rest were soon out of danger. Eight of the twenty-one persons attacked were adults. ("Med. Times and Gazette," July 28, 1860.) In October, 1862, an accident occurred at Liverpool in which a woman died in about four hours, after having eaten some mussels taken from a ship in the docks. There was severe pain and vomiting among the symptoms, which generally resembled those of arsenical poisoning. Several other persons were made seriously ill, but recovered. Although the vessel was not sheathed with copper or yellow metal, it was coated with a green pigment, of which arsenic may have been a constituent.

The poisonous action of mussels can be referred neither to putrefaction nor disease; nor in all cases to idiosyncrasy, since in one instance those mussels only which had been taken from a particular spot were poisonous; all persons who partook of them suffered, and a dog to which some of them were given, was killed. From a case which occurred to M. Bouchardat, it would appear that copper is sometimes present, and may be the cause of the poisonous effects.

[1] [The remainder of this chapter is extracted from Dr. Taylor's "Principles and Practice of Medical Jurisprudence."—P.]

Two women were poisoned by mussels, and he found on analysis sufficient copper in the fish to account for the symptoms of irritation from which they suffered. ("Ann. d'Hyg." 1837, vol. 1, p. 358.) Copper is not, however, present in all cases, and it is therefore probable that there is in some, if not in all instances, an *animal poison* present in the fish. (See "Ann. d'Hyg." 1851, vol. 1, p. 387, vol. 2, p. 108.) *Oysters* and *periwinkles* have occasionally given rise to similar symptoms. *Salmon*, sold in the state of pickled salmon, or even *herrings* salted, may also act as irritants; this may be due to the fish being partially decayed before it is used, or to the noxious effects of the pickle. For some remarks by Dr. Hamilton on the poisonous properties of fish, see the "Pharmaceutical Journal," Jan. 1853, p. 344.

Cheese.—The symptoms produced by cheese have been those of irritant poisoning. The nature of the poison is unknown. In some cases the irritant property is undoubtedly due to a putrefied state of the curd, or to the production of an irritant oil. Again, it has been supposed that the poison is occasionally derived from certain vegetables on which the cows feed. In 1858 a case was referred to me for examination, in which twenty-five persons had suffered from vomiting and purging more or less violent, owing to their having partaken of cheese. The only articles of food taken in common were bread, beer, and cheese. The bread and beer were excluded from any suspicion of containing poison. All the persons recovered. On a close examination of the cheese I found it to be strongly acid; it had an offensive musty smell, and yielded a quantity of acrid oil to ether. It had not been properly pressed, and the casein had undergone a chemical change. The ashes yielded copper and lead in traces. The cheese had acquired irritant properties, not from the presence of any poisonous matter added to it, but from partial decay. There was abundant evidence that cheese from the same dairy had been eaten without causing any injurious symptoms. This negative evidence, however, is quite consistent with one cheese acquiring noxious properties. We must not lose sight of the fact that cheese may actually contain poison mixed with it through ignorance. Orpiment or chromate of lead may be used as coloring, and the discovery of such mineral substances would at once account for the irritant effects. (See "Pharmaceutical Journal," Aug. 1862, p. 89.) The milk and cheese of some of the North American provinces, is said to be occasionally rendered poisonous by the fact that cows pasture at certain seasons on vegetables of a noxious kind.

Sausage Poison.—The symptoms caused by *sausage-poison* partake of a narcotico-irritant character; they are very slow in appearing—sometimes two, three, or four days may elapse before they manifest themselves. This poison is of a formidable kind; its effects have been chiefly observed in Germany. In the "Medical Gazette" for Nov. 1842, there is an account of the cases of three persons, who had died from the effects of liver-sausages, which had been made from an apparently healthy pig, slaughtered only a week before. The inspection threw no light on the cause of death. The poisonous property was supposed to depend on a *partial* decomposition of the fatty parts of

the sausages. It is said, that when extremely putrefied, they are not poisonous. In a case in which I was consulted, a few slices of a German sausage, evidently of old manufacture, but not putrescent, caused the death of a child, with violent symptoms of irritation of the stomach and bowels. I examined a portion of the sausage; it contained no poisonous matter which admitted of detection. The fatty portions were rancid, and the lean portions very dry. There was no doubt, however, that it had been the cause of the symptoms and death of the child. Dr. Tripe has published a complete account of the effects produced by sausage poison ("Brit. and For. Med. Rev." Jan. 1860, page 197). It appears that in November, 1859, sausages made and sold by a pork butcher, at Kingsland, were eaten more or less by sixty-six persons, of whom sixty-four were attacked with violent symptoms in from three and a half to thirty-six hours subsequently to the meal. One case only proved fatal, on the seventh day. No symptoms appeared in this man until after the lapse of six hours. It seems that he had eaten one of the sausages raw and three cooked. He was attacked with severe vomiting, and purging followed by shivering; there was pain in the abdomen; violent headache and great prostration. The pulse was feeble and quick, and there was delirium. These symptoms underwent a remission, but he had a relapse, became comatose, and died on the seventh day. Latterly, he chiefly complained of pain in the bowels. Dr. Letheby found, on inspection, no signs of inflammation or of the action of an irritant in the stomach. The small intestines were much inflamed at the lower end, and the gall-bladder was distended. The other organs were healthy. The viscera contained no vegetable or mineral poison. The sausages were made with heifer-beef, pork-fat, sage, and pepper. There was no evidence of anything noxious about them, and a chemical analysis yielded nothing of a poisonous nature. There could, however, be no doubt that the sausages had caused the symptoms and death; the food in this case acting as a narcotico-irritant poison. Other persons suffered from burning in the throat and stomach, followed by vomiting and purging; then giddiness or confusion in the head, and in some there was delirium. In the man who died, the delirium was well marked, and the eyes were red. In those persons who recovered, the noxious animal matter was probably early thrown off by vomiting and purging. (See "Trichiniasis," p. 278.)

Pork. Bacon.—These common articles of food occasionally give rise to symptoms so closely resembling those of irritant poisoning, as to be easily mistaken for them. In some cases, the effect appears to be due to idiosyncrasy; but in others it can be explained only by supposing the food to have a directly poisonous action. The noxious effects of pork have been particularly shown by the cases published by the late Dr. Mac-Divitt. ("Ed. Med. and Surg. Jour.," Oct. 1836.) As pork is sometimes salted in leaden vessels, lead may be found in it: but fresh pork has been observed to have a noxious action. In January, 1864, Mr. Kesteven met with a case in which all the members of a family were attacked with symptoms of irritant poisoning,

after eating a leg of pork. The principal symptoms were nausea, vomiting, griping pains in the abdomen, and purging: but dogs and cats fed upon the meat did not appear to suffer. Other portions of of the animal from which the leg was taken, were eaten by other families, and no symptoms of poisoning were produced. I examined the fatty portion of the food without discovering any trace of the ordinary poisons. The effects could, therefore, only be referred to some change in this particular joint.

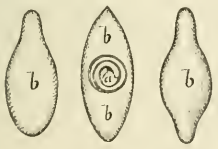
These cases of poisoning by animal food have of late been very fully examined by Mr. Simon and Mr. Gamgee. These gentlemen have traced the injurious effects of pork to a diseased condition of the pig, owing to the animal having been fed on improper food. The term measly pork is now very well known to consist in a diseased condition of the flesh of the animal, in which it is filled with a parasite called cysticercus, which is believed to be the larva of the tapeworm. This parasite undergoes full development when in the shape of food it reaches the human intestines. Mr. Gamgee expresses his confidence that there are between 40,000 and 50,000 measly pigs in Ireland, most of which are sent to Great Britain for consumption; and his impression is that for every measly pig in the kingdom, there is at least one human being affected with tapeworm. These parasites may not directly kill a person who eats this noxious food, but they favor the development of fatal disease. He also remarks that a microscopical thread-worm, the *trichina spiralis*, brings the muscular flesh of swine into a state in which a small quantity of it eaten raw, or in an imperfectly cooked state, may suffice to destroy life. As regards the possible ill effects from consuming, in a well-cooked state, the flesh of animals afflicted with *anthrax* or carbuncular fever, evidence is still imperfect, but he believes that human life may be endangered by it. An opinion has been expressed that boils and perhaps other like affections are caused in the human subject by the consumption of diseased meat. According to Mr. Gamgee, at a convict establishment where diseased cattle are eaten in large quantities, and especially cattle afflicted with lung-disease, as many as 40 and 50 cases of boils and carbuncles occur in a month among 1,500 convicts. (Simon's "Annual Report," 1863.) This lends support to the theory that diseased animal food is highly favorable to the production of carbuncular disease.

There is reason to believe that, in spite of every precaution, a large amount of diseased and unwholesome meat is sold to the public, and that of the various kinds of flesh used as food none is so subject to disease as pork. Some of the changes which it undergoes are of a microscopical character, and are not likely to be noticed. This subject has attracted the attention, not only of the Board of Health in England, but of the Governments of France and the German States, with a view to the protection of public health. For a full account of the diseases affecting the flesh of the pig, their mode of production, and the prevention of accidents, I must refer the reader to papers by M. Delpech, in the "Annales D'Hygiène," 1864, vol. 1, pp. 5, 241 ("De la Ladrerie du porc," &c.) It has been clearly

shown that the parasites found in the flesh of this and other animals, are not easily killed by boiling, roasting, or smoking, and that those are liable to suffer the most, who habitually eat the raw or partly-cooked flesh. The flesh of the pig containing cysticercus, presents in the cooked state the following appearances. When boiled it is paler than wholesome meat: it appears dryer in patches, and the muscular fibres are more separated than usual. When these are opened, the parasites are seen in the interstices, appearing as opaque white spots of the size of a hemp-seed, and presenting much the same aspect as when living. The caudal bladder attached to their bodies disappears when the meat is thoroughly cooked, and the body of the animal then appears isolated in the middle of the muscular tissue. It is friable and breaks down easily under pressure with a crackling sound, owing to the presence of calcareous matter. In this state it does not appear to be necessarily productive of injury ("Ann. d'Hyg." 1864, vol. 1, p. 249), although such food must be regarded as most unwholesome. All the members of a family were seized with vomiting, purging and syncope after having eaten a dish of pork. A medical man examined the meat, and found it full of cysticercus. A pork-butcher was accused of having sold bad meat, but it was proved to have been some cheap pork bought of a hawker of provisions. ("Ann. d'Hyg." 1864, vol. 1, p. 246.) If the cysticercus did not cause the symptoms in this case, the meat had undergone some change sufficient to impart to it irritant properties. These parasites occur in all the fleshy parts of the body. I have seen them in the human heart, as well as in the flesh of animals. My colleague, Mr. Hilton, first showed them to me in the living state, in the muscles of the thigh of a man, in 1834. They are not commonly found in the fatty portions of man and animals, and are less common in sheep and oxen than in pigs.

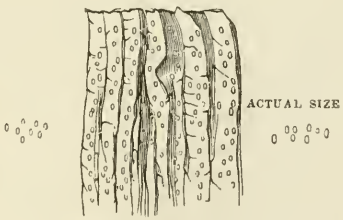
Trichiniasis.—The fatal malady, arising from the introduction of the trichina spiralis into the human body, has recently attracted much attention in France and Germany; and among others, Dr. Keller, of Darmstadt, has published some important facts illustrating

Fig. 16.



Magnified view of Trichina spiralis in its Capsule.
a The worm coiled.
b The capsules.

Fig. 17.



Trichina spiralis in the abdominal muscles of a man: natural size of the capsules containing the worm.

the symptoms produced, and the mode in which this parasite causes death. Dr. Keller considers that it is a question well worthy of the

attention of medical jurists, whether many cases of death from suspected irritant poisoning, in which no poisonous matter could be detected in the body, may not have been really due to trichina disease.

The trichina (from θρίξ, a hair) spiralis, a flesh-worm, is found chiefly in the course of the fibres of all the striped muscles of the trunk and limbs, most frequently on those of the front of the chest, neck, and abdomen. It has also been found on the muscular fibres of the heart and œsophagus. The parasites appear in the form of very small ovoid bodies, or capsules, perceptible to the eye as white specks, in the midst of the muscular fibres, but only distinctly seen by the aid of a magnifying glass. The trichina, or worm, is coiled up in the centre of each oval capsule, the greater diameter of which is always parallel to the muscular fibre with which it is closely incorporated. The engraving at the foot of page 157, is taken from a preparation in the Museum of Guy's Hospital; it represents a portion of the abdominal muscles of a man, covered with trichinæ *in situ*, and as nearly as possible of the natural size. Other illustrations in the same page represent three of the capsules *b b b* magnified, with the trichina coiled up in the centre of one of them.

These parasites are frequently so numerous as to give to the red flesh a white speckled appearance. According to Dr. Keller, as many as 300,000 have been counted in half a pound of raw meat; and Dr. Pietra Santa affirms that one gramme (about sixteen grains) of diseased meat may contain 6,000 trichinæ, each having from sixty to eighty embryos. ("Ann. d'Hyg." 1864, vol. 1, p. 317.)

The actual size of the capsule has been variously stated. From an examination of two sets of specimens in the muscles of the throat and abdomen, I estimated the long diameter to be the $\frac{1}{5}\frac{1}{0}$th of an inch, and the short diameter $\frac{1}{1}\frac{1}{0}\frac{1}{0}$th. The worm itself is said to be the $\frac{1}{3}\frac{1}{0}$th of an inch in length. The capsules are remarkably uniform in size. They are built up at the expense of the muscular structure by which they are surrounded.

The history of this animal has been given by numerous pathologists. ("Hodgkin's Lectures on Morbid Anatomy," 1836, vol. 1, p. 211.) A full description of its anatomy and habits by Dr. Bristowe and Mr. Rainey will be found in the "Transactions of the Pathological Society" for 1853–4, p. 274. More recent accounts of its influence on health by Dr. Pietra Santa, have been published in the "Ann. d'Hyg." 1864, vol. 1, p. 305 ("La Trichina spiralis"), and by Drs. Schultze and Lücke in Casper's "Vierteljahrschrift für gerichtliche Medicin," 1864, No. 1, p. 103, and No. 2, p. 269. Dr. Lücke's paper is of especial interest, as its title, "Die Trichinen vor dem Forum," implies, since it points to the medico-legal bearings of the subject, and the possible danger of confounding the ravages of this parasite, with the obscure effects produced in certain forms of chronic irritant poisoning.

From these researches, it is now clearly established, that the trichina is a viviparous parasite, which passes the greater part of its existence in the crysalis state in the muscular system, until, by the consumption of this muscle as food, it finds in the stomach and intestines of

another warm-blooded animal a favorable medium for its full development into an intestinal worm. According to Virchow and Zenker, the trichina not only frequently presents itself in the human organism, but this organism is most favorable to its development. The period of incubation of the chrysalis in the stomach and bowels of man or of warm-blooded animals, is from six to eight days; and during this time it there thrives and propagates to an almost incredible extent. Dr. Keller states that in three or four days the females produce 100 or more young ones, which begin on the sixth day to leave the parent animal; and he estimates that in a few days after the ingestion of half a pound of meat, the stomach and intestinal canal of a person may contain thirty millions of these minute worms. M. Herbst found the muscles of two dogs which had been fed upon parts of a badger containing worms, to be loaded with these parasites. When once introduced into the stomach and intestines, the worms leave their capsules, become free, and produce young, which migrate through the walls of the intestines into the muscles; there they become encysted, and are ultimately found appropriating and destroying the muscular substance to a greater or less extent. The sudden liberation of a large number of these worms causes irritation and inflammation in the bowels, attended by peculiar symptoms resembling in some respects those of poisoning.

It is worthy of note that trichinæ are more frequently found in pork and articles of food derived from it, than in any other kind of meat. Measly pork appears to be sometimes of a trichinous character. Further, the vitality of the parasites is not destroyed unless the meat, or other substances in which they are located, has been subjected to a temperature equal to that of boiling water for a sufficient time to insure that every particle has been exposed to this degree of heat. Salting and smoking, or partial cooking, is not sufficient to destroy the worms in all parts of the food, and they have even been found living in putrefied meat. This may serve to account in some cases for the serious symptoms which have followed the use of pork as food, also of bacon, sausages, and German sausages, which are generally made of raw ham.

The symptoms produced by the use of such food are, in the first stage, those of intestinal irritation, loss of appetite, sickness, pain, general weakness of the limbs, with diarrhœa, swelling of the eyelids and of the joints, profuse clammy perspiration, and a wasting fever, sometimes of a typhoid character. Death is either the result of paralysis (from destruction of the muscular fibres), or of peritonitis and irritative fever. During the perforation of the coats of the intestines by these worms, the mucous membrane becomes irritated and inflamed: pus is formed on its surface, and bloody evacuations are sometimes passed. No case is known in which trichiniasis, after having once declared itself, was arrested by medical treatment.

The noxious effects of this food on human beings are well illustrated by a series of cases which occurred at Hettstädt, in the Hartz mountains, in 1863. ("British Med. Journal," Jan. 16, 1864, p. 75.) One hundred and three persons partook of smoked sausages made

from a pig affected, as it turned out, with trichinous disease. The sausages were fried, and served for dinner in the usual way. On the following day, several persons who had partaken of this food were attacked with severe pain in the bowels, purging, loss of appetite, great prostration of strength, and fever. The number of persons attacked rapidly increased, symptoms of peritonitis and pneumonia manifested themselves, and these were followed by paralysis of the intercostal muscles, and of the muscles in front of the neck. Eighty-three persons died from the effects of this noxious food, and the remainder were seriously injured in health. The remnants of sausage and of pork not eaten at this festival were examined, and were found to be literally swarming with encysted trichinæ. (See Casper's "Vierteljahrschrift," April, 1864, p. 286.) The writer in the above journal affirms that this parasitic disease does not attack sheep, oxen, or horses, and that beef is the safest of all descriptions of food, as no parasites have ever been discovered in it. They have not been found in the blood of animals whose muscles are liable to their attacks.

Dr. Reyber relates that in the year 1862, a series of cases of illness to the number of thirty occurred in Plauen, as the result of the use of pork containing trichinæ. Among the symptoms were great languor, loss of appetite, fever, and pains in the muscles of the arms and legs. The effects spread like an epidemic. A female patient under Professor Virchow died, at Dresden, with typhoid and rheumatic symptoms. When the body was inspected, trichinæ were found in her muscles. On inquiry, it was found that, four weeks before, a diseased pig had been killed and eaten in the town in which she resided; the butcher that killed it suffered, but this woman alone died from the effects. ("Ann. d'Hyg." Oct. 1863, p. 471.) Pietra Santa relates that, at a nuptial festival at Wiesbaden, twenty persons partook of the food placed on the table. In the evening, the bride was suddenly seized with symptoms of poisoning, and in spite of medical assistance, died in a few hours. The bridegroom himself suffered from similar symptoms, and died after two days' illness. The other guests were not seriously affected. A physician-expert, who examined the case, found trichinæ in the body of the deceased, as well as in certain articles of food prepared from pork which had been served at the table ("Ann. d'Hyg." April 1, 1864, p. 321.) The fact that only two out of the party suffered from symptoms resembling poisoning, and that one died rapidly, was calculated to excite grave suspicion. Sudden deaths from trichinous food are not common, and it is to be regretted that this case is not given with fuller details. The real cause of death in this instance does not appear to have been clearly traced to the trichinous food.

[The "Chicago Medical Journal" for August, 1866, contains an article contributed by Dr. E. M. Smith of Linn County, Iowa, in which is reported a case of poisoning of a family of nine persons by eating trichinous pork. They were all taken sick about the same time in the early part of May, 1866, after having eaten portions of raw smoked ham some five or ten days before. Dr. Smith was not called in until they had been sick for a week or more; at which time "the

prominent symptoms observable were: more or less diarrhœa; tenderness of the abdomen; tongue thickly coated, contracted and red about the edges; œdema of the face in several of the cases; considerable pneumonic irritation in some; fever of a typhoid character; pulse ranging from 100 to 120 per minute; great thirst and profuse sweating; complaint of soreness and stiffness of the muscles, a difficulty of extending the limbs, wakefulness at night, and excessive exhaustion. Each case exhibited more or less of the symptoms enumerated, the difference being merely in intensity." Five of the patients died (the first death occurring on the 30th May and the last on the 17th June), upon two of whom *post-mortem* examinations were made. "Upon placing minute particles of these muscles" (the rectus femoris and biceps) "under the glass, the parasites were seen in great numbers; the veritable *trichinæ spiralis*. Many of these were very active, and were readily seen to coil and uncoil, and to exhibit an activity commensurate with the terrible work they had done. I counted twenty-six trichinæ in one field of the glass; and upon placing a piece of the rectus femoris $\frac{1}{2}\frac{1}{2}$ of an inch in diameter, under the object glass, 104 trichinæ were counted, which would give nearly 200,000 parasites to the cubic inch." "No lesions of a pathological character were found, the appearance of the viscera being nearly or quite normal. Portions of the muscles from different parts of the body were removed for microscopic investigation; also of the liver, spleen, and lungs. The voluntary muscles were swarming with trichinæ; some were found in the lungs and spleen, but none in the heart and liver." The patients who recovered had eaten but a very small quantity of the raw meat. The observations of Dr. Smith showed that it was probable that the "activity of the parasite begins to subside in from forty to fifty days from the first indications of the malady."—P.]

Although little has been heard of trichinous disease in England, it appears to have been prevalent in Germany. Among the official notices recently published by the Prussian Government, is one which points out the danger arising from the use of pork in a diseased state, and warning those who sell it to the public, of the penalties which they thereby incur. (Casper's "Vierteljahrschrift," July, 1863, p. 177.) Under this notice, it is stated in addition to the cases above given, that in 1862, thirty-eight persons in Kalbe, suffered severely from the use of such food, and of these, eight died from the effects.

Dr. Shultze refers to other groups of cases, which, however, do not appear to have been attended with great fatality. In Magdeburg, Neustadt, and Buckau, over a period of five years, 1858–62, from three to four hundred cases of illness were traceable to this cause. ("Die Trichinen Krankheit," Casper's "Vierteljahrsch.," April 1864, p. 278.) In Burg more than fifty persons suffered, and eleven died. Other fatal cases have been reported. For these I must refer the reader to Dr. Shultze's paper. In February, 1864, a whole family was poisoned at New York, and one member died from eating part of a ham, which, on microscopic examination, was found to be full of the trichina spiralis. Death was referred by the medical attendant to this cause.

It is probable that some unexplained cases of death from irritation of the stomach and bowels, simulating chronic irritant poisoning, may have been the result of eating food containing trichina spiralis. Medical men have been unable to group the symptoms under any known form of disease, while the marks of irritation and inflammation in the mucous membrane of the bowels have given strength to the supposition that poison must have been taken by the deceased, although chemical analysis had failed to show the presence of any ordinary poison in the fluids and solids of the body. In the course of many years' practice, I have met with several cases of this description, and there has been sometimes manifested a disposition to doubt the accuracy of chemical analysis. Dr. Lücke has related a series of fatal cases which occurred in 1845, attributed at the time to poison, which as he suggests were most probably caused by the use of trichinous food. (Casper's "Vierteljahrschrift," January, 1864, p. 102.)

As means of distinction from irritant poisoning may be pointed out the long time which commonly elapses between the taking of the food and the commencement of the symptoms. The pain, vomiting, and purging are comparatively slight: the pain is in the bowels rather than in the stomach, and peritonitis, pneumonia, and fever are not commonly results of the action of irritant poisons, while they appear to be constant symptoms in trichiniasis. The absence of ordinary poison in the food, in the urine, and the evacuations, at any stage, may also be taken as conclusive evidence against irritant poisoning in its usual form.

In suspected cases, a new method of research must be added to those already in use. If any of the food can be obtained, this must be examined for the parasite by the aid of the microscope. If the case proves fatal, the voluntary muscles of the deceased must undergo a similar examination.

["A committee was appointed some time since by the Chicago Academy of Sciences to ascertain, first, whether trichinæ actually exist in the hogs of this country, and in those of the Northwest in particular; and secondly, should they exist, to determine the extent of the danger thereby incurred, and to ascertain the best means of averting it. For the attainment of the first object portions of muscles from 1394 hogs in the different packing houses and butcher shops of Chicago have been examined, and the results presented in tables.

These tables show that the committee "have found trichinæ in the muscles of twenty-eight hogs out of 1394 examined. We may therefore conclude that in the hogs brought to Chicago one in fifty is affected with trichiniasis in a greater or less degree. We must confess our surprise at arriving at this result, which indicates, with little doubt, the startling fact that trichiniasis in pork is even more common in this country than in Germany, where it caused so much suffering and death. For instance, in the city of Brunswick, where a most careful inspection of 19,747 hogs was made in the years 1864–'5, only two were found to contain trichinæ in their muscles, the proportion being 1 to 10,000 against 1 to 50, as before stated, in

our country. The comparative immunity from disease which our own people have enjoyed, undoubtedly results from our habit of cooking meat before eating it, while in Germany it is eaten raw by the poorer classes, on account of the high price of fuel."

The committee have found the spinal muscles more liable to be infested with the trichinæ than other muscles."[1]—P.]

Putrescent Food.—The effects of disease on animal food must not be confounded with those which result from decay or putrefaction. The flesh of the most healthy animal is rendered unfit for food when it has passed into a putrescent state. It is not merely unwholesome, but highly irritant, causing rapidly vomiting, purging, pain, and other symptoms of a severe kind. Fortunately these symptoms lead at once to the expulsion of the noxious food from the body, and the person then recovers: the young, the old, and the infirm may, however, be so prostrated by vomiting and purging, that they may sink from exhaustion. Animal matter in a state of partial decay, or in the transition stage of putrefaction, must be regarded as of a poisonous nature. Much of the cheap butcher's meat sold to the poor is in a state of decay, and is quite unfit for human food. In 1863, 114,000 pounds of diseased, and 76,000 pounds of putrid meat were seized and condemned in the city of London alone. In January, 1851, the family of a surgeon near London, were all affected with symptoms resembling irritant poisoning, after having partaken of a hare which had been stewed in a clean earthen vessel. The surgeon informed me that on the second day, his wife was seized with vomiting and purging, giddiness, heat in the throat, and general numbness, with inflamed eyes. Other members of the family vomited, and in the course of a few days the symptoms disappeared. I examined the vomited matter, and found it to consist of portions of the hare partially digested, but in a state of putrefaction, so that there was abundant evidence of sulphuretted hydrogen in the liquid. There was no mineral poison of any kind, although the symptoms, it will be observed, were rather like those occasioned by arsenic. It had been remarked by the family, that a silver spoon, which had been used in serving out this unwholesome food, was turned of a brown color, no doubt from the chemical action of sulphuretted hydrogen; and this may be taken as a good domestic test of the putrefied condition of such food. Nature generally applies an appropriate remedy, in the fact that the food itself produces copious vomiting and purging.

Cases of this kind must be distinguished from those in which *poisoned game* is sold to the public. The game may be quite free from putrefaction, but noxious from the poisoned grain which may have caused death. It is a very common practice to steep grain in a solution of arsenic, previous to sowing, and pheasants, partridges, and other birds may be accidentally destroyed by eating the grain. In some instances, grouse and other game are maliciously destroyed by the laying of corn, saturated with arsenic or other poisons, in the

[1] Medical News and Library, Philadelphia, May, 1866.

localities where the birds abound. There is no law to prevent the sale of poisoned game by poulterers, and there is no precaution which can be taken by the purchasers, except by observing whether the birds have or have not been shot. (See on this subject, "On Poisons;" also a letter by Dr. Fuller, "Med. Gaz." vol. 42, p. 1036.)

Mr. Taylor, of Romsey, has directed attention (Sept. 1862) to the serious symptoms produced by *Canadian partridges* eaten as food. A lady who had partaken of this food was, in about two hours and a half, attacked with the following symptoms. She had sickness, and became insensible: the skin was cold, and no pulse could be felt. She was in a hopeless state for some hours, and only slowly recovered. The birds were quite fresh, having been packed in ice. In another case, there were similar symptoms with constriction of the throat and great pain. Animals were made ill by this food. It was believed that, in these cases, the birds had not been killed by poison, but that their flesh had been rendered poisonous by some vegetable which they had eaten.

[Frequent cases of poisoning from eating the flesh of the pheasant (*Tetrao umbellus*) have occurred in the United States. This bird, during the winter season, has sometimes caused dangerous symptoms in persons who have eaten it. These have generally been attributed to the fact of the bird having fed upon the leaves and buds of the laurel (*kalmia*), and many facts have here been adduced which are considered as corroborating this opinion, the most striking of which is the occurrence of the leaves of the plant in the crops of the birds. Notwithstanding this almost universal belief, Dr. Griffith, in the former edition of this work, is not satisfied with this explanation, but is inclined to attribute it to some change in the flesh analogous to that noticed above, as taking place in other meats, since the symptoms are almost identical, and these cases are rare, whilst nearly all these birds feed on the laurel, when the ground is covered with snow and other food cannot be readily obtained.—H.]

NEUROTIC POISONS.

(NARCOTIC OR CEREBRAL POISONS.)

CHAPTER XVI.

OPIUM.—SYMPTOMS.—APPEARANCES.—ITS ACTION ON INFANTS.—POISONING WITH OPIATE COMPOUNDS.—MORPHIA AND ITS SALTS.—PROCESS FOR DETECTING OPIUM IN ORGANIC MIXTURES.

OPIUM.

Symptoms.—The symptoms which manifest themselves when a large dose of opium or its tincture has been taken, are in general of a uniform character. They are—giddiness, drowsiness, a strong tendency to sleep, stupor, succeeded by perfect insensibility, the person lying motionless, with the eyes closed as if in a sound sleep. In this state he may be easily roused by a loud noise, and made to answer a question: but he speedily relapses into stupor. In a later stage, when coma has supervened with stertorous breathing, it will be difficult, if not impossible to rouse him. The pulse is at first small, quick, and irregular, the respiration hurried, and the skin warm and bathed in perspiration, sometimes livid: but when the person becomes comatose, the breathing is slow and stertorous; the pulse slow and full. The skin is occasionally cold and pallid. The pupils, in the early stage, are contracted; in the later stage, and when progressing to a fatal termination, they may be found dilated. In a case referred to me in 1846, one pupil was contracted and the other dilated. In infants and children they are generally much contracted. They are commonly insensible to light. The expression of the countenance is placid, pale, and ghastly: the eyes are heavy, and the lips are livid. Sometimes there is vomiting, or even purging; and, if vomiting takes place freely before stupor sets in, there is great hope of recovery. This symptom is chiefly observed when a large dose of opium has been taken; and it may then be, perhaps, ascribed to the mechanical effect of the poison on the stomach. The peculiar odor of opium is occasionally perceptible in the breath. Nausea, and vomiting, with headache, loss of appetite and lassitude, often follow on recovery. In cases likely to prove fatal, the muscles of the limbs feel flabby and relaxed, the lower jaw drops, the pulse is feeble and imperceptible, the sphincters are in a state of relaxation, the pupils are unaffected by light, the tem-

perature of the body is low, there is a loud mucous rattle in breathing, and convulsions are sometimes observed before death, but more commonly in children than in adults. One of the marked effects of this poison is to suspend all the secretions except that of the skin. Even during the lethargic state, the skin, although cold, is often copiously bathed in perspiration. It is a question yet to be determined, whether this may not be a medium by which the poison is principally eliminated. The contracted state of the pupils has been hitherto considered to furnish a valuable distinctive sign of poisoning with opium or the salts of morphia. In relying upon it, it is necessary to bear in mind the fact pointed out by Dr. Wilks, that, in apoplexy, which is seated in the pons Varolii, the pupils are also contracted. He describes two cases of this form of apoplexy which were mistaken for poisoning by opium in consequence of this condition of the pupils. ("Med. Times and Gaz.," 1863, 1, p. 214.) The symptoms above described usually *commence* in from *half an hour* to *an hour* after the poison has been swallowed. Sometimes they come on in a few minutes, especially in children; and at other times their appearance is protracted for a long period.

Appearances.—In a case which proved fatal in fifteen hours, the vessels of the head were found unusually congested throughout. On the surface of the fore part of the left hemisphere, there was an ecchymosis, apparently produced by the effusion of a few drops of blood. There were numerous bloody points on the cut surface of the brain:—there was no serum collected in the ventricles. The stomach was quite healthy. Fluidity of the blood is mentioned as a common appearance in cases of poisoning by opium. There is also engorgement of the lungs: most frequently observed, according to Dr. Christison, in those cases which have been preceded by convulsions. (Op. cit., p. 732.) Among the external appearances there is often great lividity of the skin. Extravasation of blood on the brain is rarely seen; serous effusions in the ventricles, or between the membranes, are sometimes met with. The stomach is so seldom found otherwise than in a healthy state, that the inflammatory redness said to have been occasionally seen, may have been due to accidental causes. From this account of the appearances in the dead body, it will be seen that there is nothing but a fulness of the vessels of the brain, which can be looked upon as specially indicative of poisoning by opium, and even this is not always present.

The medicinal *dose* of opium, in *extract* or *powder* for a healthy adult, varies from half a grain to two grains. Five grains would be a very full dose. The medicinal dose of the *tincture* (laudanum) is from ten minims to one drachm—as an average, from thirty to forty minims. The *smallest dose of solid opium* which has been known to prove fatal to an adult, was in a case reported by Dr. Sharkey, of Jersey. A man, æt. 32, died very speedily in a convulsive fit, after having taken two pills, each containing about one grain and a quarter of extract of opium. This quantity is equivalent to *four grains* of crude opium. ("Med. Gaz.," vol. 37, p. 236.) The *smallest fatal dose of the tincture* in an adult, which I have found recorded, is *two*

drachms. ("Ed. Med. and Surg. Journ.," July, 1840.) In connection with this subject, it is important for a medical jurist to bear in mind that *infants* and young persons are liable to be killed by very small doses of opium; they appear to be peculiarly susceptible of the effects of this poison. The syrup of poppies, paregoric elixir, Godfrey's cordial, and Dalby's carminative, owe their narcotic effects to the presence of opium. The symptoms and appearances which they produce when taken in a large dose are similar to those caused by opium or its tincture.

It has been remarked, that most cases of poisoning by opium prove fatal in from about six to twelve hours. They who recover from the stupor, and survive longer than this period, generally do well; but there may be a partial recovery, or a remission of the symptoms, and afterwards a fatal relapse. The symptoms, however, generally progress steadily to a fatal termination, or the stupor suddenly disappears, vomiting ensues, and the person recovers. Several instances are recorded of this poison having destroyed life in from seven to nine hours. One has occurred within my knowledge, in which an adult died in five hours after taking the drug prescribed for him by a quack. Dr. Christison met with a case which could not have lasted above five, and another is mentioned by him which lasted only three hours. Mr. Barwis, of Melton, communicated to me the case of an adult (November, 1863) which proved fatal in three hours and a half.

Morphia and its Salts.—Morphia is the poisonous alkaloid of opium, of which it forms from five to ten per cent. The two principal salts of this alkaloid are the *hydrochlorate* and the *acetate.* Opium owes its narcotic properties chiefly to the presence of morphia in combination with meconic acid. A dose of one grain of a salt of morphia has destroyed life.

Chemical Analysis. Opium.—There are no means of detecting opium itself, either in its solid or liquid state, except by its smell and other physical properties, or by giving a portion of the suspected substance to an animal, and observing whether any narcotic effects are produced. The smell is said to be peculiar, but a similar smell is possessed by lactucarium, which contains neither meconic acid nor morphia. The *odor* is a good concomitant test of the presence of the drug, whether it be in a free state, or dissolved in alcohol or water, but it is not perceptible when the solution is much diluted. The analysis in cases of poisoning by opium, is therefore limited to the detection of morphia and the acid with which it is combined, meconic acid.

Morphia.—Morphia may be identified by the following properties: 1. It crystallizes in small prisms, which are white and perfect, according to their degree of purity. These crystals may be obtained by adding weak ammonia to a solution of morphia in hydrochloric acid. (See the illustration, Fig. 18.) 2. When heated on platinum, the crystals melt, become dark-colored, and burn like a resin with a yellow smoky flame, leaving a carbonaceous residue. If this ex-

periment is performed in a small reduction-tube, it will be found, by employing test-paper, that ammonia is one of the products of decomposition. 3. It is scarcely soluble in cold water, as it requires 1000 parts to dissolve it; it is soluble in 100 parts boiling water, and the hot solution has a faint alkaline reaction. By its insolubility in water, it is readily known from its salts. It is not very soluble in ether, thus differing from narcotina; but it is dissolved by forty parts of cold, and rather less than this quantity of boiling alcohol. It is dissolved by a solution of potash or soda, from which it cannot be removed by ether. It is very soluble in acetic ether, and this liquid has been employed as a substitute for ether in procuring morphia from organic liquids. 4. It is easily dissolved by a very small quantity of all diluted acids, mineral and vegetable. 5. Morphia and its solutions have a bitter taste. 6. The salts of morphia are not precipitated in a crystalline form by solutions of sulphocyanide of potassium, ferricyanide of potassium, nor chromate of potash. In this respect they are strikingly distinguished from the salts of strychnia, which give well-marked crystalline precipitates with these three reagents. Like all alkaloids, the morphia in solution is thrown down white by the chloriodide of potassium and mercury (made by dissolving sixteen grains of corrosive sublimate and sixty grains of iodide of potassium in four ounces of water). This liquid precipitates albumen, hence this substance, if present, should be separated by boiling before applying the test.

Fig. 18.

Crystals of Morphia obtained by adding ammonia to a solution of the hydrochlorate, magnified 124 diameters.

Tests.—In order to apply the chemical tests for morphia, the alkaloid may be dissolved in a few drops of a diluted acid, either the acetic or the hydrochloric. If the hydrochlorate or the acetate of morphia is presented for analysis, the salt may be at once dissolved in a small quantity of boiling water. The tests for this alkaloid are the following: 1. *Nitric acid.* This, when added to a moderately strong solution of a salt of morphia, produces slowly a deep orange-red color. If added to the crystals of morphia or its salts, deutoxide of nitrogen is evolved; the morphia is entirely dissolved, and the solution acquires instantly the deep red color above described; becoming, however, lighter by standing. In order that this effect should follow, the solution of morphia must not be too much diluted, and the acid must be strong and added in pretty large quantity. The color is rendered much lighter by boiling; therefore the test should never be added to a hot solution. 2. *Perchloride of iron* (sesquichloride), or colorless persulphate. Either of these solutions, when saturated and neutralized (by a small quantity of potash, if necessary), produces an inky-blue color in a solution of morphia. If the quantity of morphia is small, or the test has a deep red or yellow tint, the color is greenish. The blue color is entirely destroyed by

acids, and is also destroyed by heat; thus the iron-test should never be employed with a very acid or a very hot solution of a salt of morphia. It may be observed, that the blue given by the test in a solution of morphia, is entirely destroyed by nitric acid and replaced by an orange-red color, so that the nitric acid will act through the iron-test, but not vice versâ. In this way two tests may be applied to one quantity of liquid. 3. *Iodic acid.* Morphia in the solid state or in solution, decomposes this acid, taking its oxygen, and setting free iodine. In order to make this evident, the iodic acid should be first mixed with starch; and a part of this mixture only, added to the suspected solution—part being reserved, to allow of a comparison. (If the iodic acid be added to a solution of morphia without starch, the liquid becomes brown and smells of iodine.) When the quantity is very small, there is only a reddish or purple tint slowly produced: when large, the dark-blue iodide of farina is formed in a few seconds. The color being destroyed by heat, the test must not be added to a hot solution. The test succeeds equally well with morphia or its salts, when unmixed with organic matter. 4. *Sulphuric acid* and *bichromate of potash.* When strong sulphuric acid is poured on pure morphia in a solid state, there is either no effect, or the alkaloid acquires a light pinkish color. On adding to this a drop of solution of bichromate of potash, or a small fragment of a crystal, it immediately becomes green (from oxide of chromium), and retains this color for some time.

Meconic Acid.—This is a solid crystalline acid, seen commonly in scaly crystals of a pale reddish color. It is combined with morphia in opium, of which, according to Mulder, it forms on an average six per cent.; and it serves to render this alkaloid soluble in water and other menstrua. *Tests.*—Many tests have been proposed for meconic acid; but there is only one upon which any reliance can be placed, namely, the *perchloride* or *persulphate of iron.* This test produces, even in a diluted solution of meconic acid, a deep red color; and it is owing to the presence of this acid that a salt of iron strikes a red color in tincture and infusion of opium, as well as in all liquids containing traces of meconate of morphia, the effects of the iron-test with morphia being counteracted by the presence of meconic acid. The red color of the meconate of iron is not easily destroyed by diluted mineral acids, by a solution of corrosive sublimate, or by chloride of gold, but it is by sulphurous acid and chloride of tin. In liquids containing tannic acid, *e. g.*, tea or beer, the action of this test is obscured.

Detection of Opium in Organic Mixtures.—Opium itself may be regarded as an organic solid, containing the poisonous salt which we wish to extract. It is not often that, in fatal cases of poisoning by opium or its tincture, even when these are taken in large quantity and death is speedy, we can succeed in detecting meconate of morphia in the stomach. The poison is probably removed by vomiting or absorption. If the matter is solid, it should be cut into small slices; if liquid, evaporated to an extract; and, in either case, digested with a large quantity of rectified spirit slightly acidulated with acetic

acid. The residue should be well pressed in linen; the alcoholic liquid should then be evaporated in a water-bath until it is almost dry. The residue should be digested in water filtered and treated with acetate of lead, until there is no further precipitation. This liquid should be boiled and filtered: meconate of lead is left on the filter, while any morphia passes through under the form of acetate. The surplus acetate of lead, dissolved in the filtered liquid (containing the morphia) should now be precipitated by a current of sulphuretted hydrogen—the black sulphide of lead separated by filtration, and the filtered liquid evaporated at a very gentle heat to an extract, so that any sulphuretted hydrogen may be entirely expelled. On treating this extract with alcohol, the acetate of morphia, if present in sufficient quantity, may be dissolved out and tested. If the alcoholic liquid is still much colored, it may be again evaporated and taken up by water. Animal charcoal deprives it of color, but at the same time removes the morphia if this is in small quantity. If there is a sufficient quantity of pure acetate present, the addition of a drop of solution of ammonia to a portion of the liquid on a slide, will produce crystals of the form of slender prisms which are somewhat deliquescent (see Fig. 18). The remainder may be tested by the nitric and iodic acids. The *meconate* of lead left on the filter is readily decomposed by boiling it with a small quantity of diluted sulphuric acid; and in the filtered liquid, neutralized if necessary by an alkali, the meconic acid is easily detected by the iron-test.

CHAPTER XVII.

PRUSSIC ACID.—SYMPTOMS AND APPEARANCES.—TESTS FOR THE ACID —PROCESS FOR ORGANIC MIXTURES.—CYANIDE OF POTASSIUM.—ESSENTIAL OIL OF BITTER ALMONDS.—NITROBENZOLE.

Hydrocyanic or Prussic Acid.

Symptoms.—This acid has a hot bitter taste and an odor resembling that of bitter almonds diluted. The time at which the symptoms of poisoning commence varies, but it is generally within a few minutes after the poison has been swallowed. When a large dose has been taken, as from half an ounce to an ounce of diluted acid, the symptoms usually commence in the act of swallowing, or within a few seconds. It is rare that their appearance is delayed beyond *one or two minutes.* When the patient has been seen at this period, he has been perfectly insensible, the eyes fixed and glistening, the pupils dilated and unaffected by light, the limbs flaccid, the skin cold and covered with a clammy perspiration: there is convulsive breathing at long intervals, and the patient appears dead in the intermediate period; the pulse is imperceptible, and involuntary evacuations

are occasionally passed. The respiration is slow, deep, gasping, and occasionally heaving, or sobbing. It is generally convulsive, but when the coma or insensibility is profound, it may be stertorous. This was observed in a case which occurred to Dr. Christison. ("Edinburgh Monthly Journal," February, 1850, p. 97.) Convulsions of the limbs and body with a spasmodic closure of the jaw are sometimes noticed among the symptoms.

Appearances.—The body when seen soon after death often exhales the odor of prussic acid; but if it has remained exposed before it is seen, and if it has been exposed to the open air or in a shower of rain, the odor may not be perceptible; again the odor may be concealed by tobacco-smoke, peppermint, copaiba, or other powerful odors.

Externally, the skin is commonly livid, or is tinged of a violet color; the nails are blue, the fingers clenched, and the toes contracted; the jaws firmly closed, with foam or froth about the mouth, the face often pale, but sometimes bloated and swollen, and the eyes have been observed to be wide open, fixed, glassy, very prominent and glistening with the pupils dilated; but a similar condition of the eyes has been observed in other kinds of violent death. *Internally*, the venous system is gorged with dark-colored liquid blood; the stomach and intestines may be in their natural state; but in several instances they have been found more or less congested. The mucous membrane of the stomach of a dog which died in a few minutes from a dose of three drachms of Scheele's acid, was intensely reddened throughout, presenting the appearance met with in arsenical poisoning.

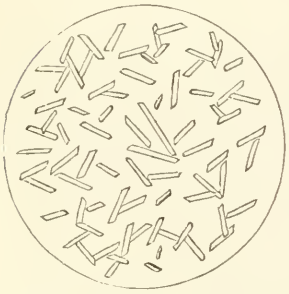
The *smallest* dose of this acid which is reported to have caused death, was in a case which occurred to Mr. Hicks. ("Med. Gaz." vol. 35, p. 896.) A healthy adult woman, died in twenty minutes from a dose equivalent to *nine-tenths* of a grain of anhydrous prussic acid. This corresponds to about *twenty grains* of Scheele's acid. In a case reported by Mr. T. Taylor ("Med. Gaz." vol. 36, p. 104), a stout healthy man swallowed this dose, *i. e.* nine-tenths of a grain, by mistake, and remained insensible for *four hours*, when he vomited and began to recover. From the facts hitherto observed, we shall not be wrong in assuming that a quantity of Scheele's acid (at five per cent.) above twenty grains (*i. e.* one grain of anhydrous acid), or an equivalent portion of any other acid, would commonly suffice to destroy the life of an adult. This I believe to be the nearest approach that we can make to the *smallest fatal dose.*

When a dose of two drachms and upwards has been taken, we may probably take the average period for death at from *two* to *ten* minutes. In Mr. Hicks' case, twenty grains of Scheele's acid destroyed life in twenty minutes. It is only when a dose is just in a fatal proportion, that we find a person to survive from half an hour to an hour. In this respect, death by prussic acid is like death by lightning, the person in general either dies speedily or recovers altogether.

Chemical Analysis.—Prussic acid is limpid like water; it possesses

a faint acid reaction, and its vapor has a peculiar odor, which when the acid is concentrated, although not at first perceptible, is sufficient to produce giddiness, insensibility, and other alarming symptoms. The tests which are best adapted for the detection of this poison, either in liquid or vapor, are equally applicable whether the acid is concentrated or diluted, and, so far as the detection of the *vapor* is concerned, whether the acid is pure or mixed. *In the simple state*, the tests are three in number: the *Silver*, the *Iron*, and the *Sulphur* tests. 1. *The Silver Test. Nitrate of Silver.*—This yields, with prussic acid, a dense white precipitate, speedly subsiding in heavy clots to the bottom of the vessel, and leaving the liquid almost clear. The precipitate is identified as cyanide of silver by the following properties: *a.* It is insoluble in cold nitric acid; but when drained of water, and a sufficient quantity of strong acid is added, it is easily dissolved on boiling. *b.* It evolves prussic acid when digested in hydrochloric acid. *c.* The precipitate, when *well dried*, and heated in a small reduction-tube, yields cyanogen, which may be burnt as it issues, producing a rose-red flame with a blue halo. This is a well-marked character, and at once identifies the acid which yielded the precipitate as prussic acid. For the detection of prussic acid in *vapor*, hold over the liquid a watch-glass moistened in the centre with a drop of a solution of nitrate of silver. Cyanide of silver, indicated by the formation of an opaque white film in the solution is immediately produced, if only in a moderate state of concentration. One drop of a diluted acid containing less than 1-50th of a grain of the anhydrous acid produces speedily a visible effect. When the prussic acid is more diluted, a few minutes are required; and the opaque film begins to show itself at the edges of the silver solution. In this case the action may be accelerated by the heat of the hand. If the vapor is allowed to reach the nitrate of silver gradually and much diluted with air, then instead of an opaque film of cyanide of silver, crystals well defined under the microscope will be slowly produced, and these will constitute an additional proof of the presence of the acid in a state of vapor. As shown in the illustration, Fig. 19, these crystals have the form of slender prisms with oblique terminations. They often hang together in groups, and generally require a high magnifying power to render them visible. 2. *The Iron-Test.*—The object of the application of this test, is the production of *Prussian Blue.* Add to a small quantity of the suspected poisonous liquid a few drops of potash and of a solution of green sulphate of iron. A dirty green or brownish precipitate falls; on shaking this for a few minutes, and then adding dilute hydrochloric or sulphuric acid, the liquid becomes blue; and Prussian blue, of its well-known color, unaffected by diluted acids, subsides. 3. *The Sulphur Test.*—Some

Fig. 19.



Crystals of Cyanide of Silver from the vapor of prussic acid, magnified 124 diameters.

years since Liebig proposed the following process for detecting prussic acid as a *liquid*. ("Oesterreichische Med. Wochenschrift," März 27, 1847, p. 396.) If a small quantity of the bisulphide of ammonia is added to a few drops of a solution of prussic acid, and the mixture is gently warmed, it becomes colorless, and, on evaporation, leaves crystals of sulphocyanate of ammonia—the sulphocyanic acid being indicated by the intense blood-red color produced on adding to the dry residue a solution of a nearly neutral persalt of iron: this red color immediately disappears on adding a few drops of a solution of corrosive sublimate.

The great utility of the *sulphur-test*, however, is in its application to the detection of the minutes portion of prussic acid when in a state of *vapor*. In this respect it surpasses any other process yet discovered. In order to apply it, we place the diluted prussic acid in a watch-glass, and invert over it another watch-glass, having in its centre one drop of the bisulphide of ammonium. No change apparently takes place in the sulphide; but if the upper watch-glass is removed after the lapse of from half a minute to ten minutes, according to the quantity and strength of the prussic acid present, crystallized sulphocyanate of ammonia will be obtained on gently evaporating the drop of liquid to dryness. With an acid of from three to five per cent. the action is completed in ten seconds. The addition of one drop of the neutral persulphate of iron (free from nitric acid), to the dried residue, brings out the blood-red color instantly, which is intense in proportion to the quantity of sulphocyanate present. I have elsewhere made some remarks on the application of this process for the detection of prussic acid. (See "Med. Gaz." 1847, vol. 39, p. 765.)

Prussic Acid in Organic Liquids. Detection by vapor without distillation.—The organic liquid may be placed in a wide-mouthed bottle, to which a watch-glass has been previously fitted as a cover. The capacity of the bottle may be such as to allow the surface of the liquid to be within one or two inches of the concave surface of the watch-glass. The solution of *Nitrate of silver* is then used as a trial-test for the vapor in the manner above described. If the 1-200th of a grain of prussic acid is present, and not too largely diluted, it will be detected (at a temperature of 60°) by the drop of nitrate of silver being converted into an opaque white or crystalline film of cyanide of silver, the chemical change commencing at the margin. We may then substitute for the nitrate of silver the bisulphide of ammonium and proceed in the manner above described. It may be sometimes necessary to place the bottle in a basin of warm water. If the solution of silver is tarnished by sulphuretted hydrogen, as a result of putrefaction, the sulphur-test alone should be used. By this process I have detected prussic acid in the stomach of a person poisoned by it, as late as twelve days after death. After the stomach had been exposed for a few days longer, the acid had entirely disappeared.

If traces of the poison are found then the organic liquid should be distilled in a water-bath, at 212°, and about one-sixth or one-

eighth of the contents of the retort, collected in a receiver kept cool by water. The test may now be applied to the distilled liquid.

In the Tissues.—Soon after death the poison may be easily detected in the blood, secretions, or any of the soft organs, by placing them in a bottle, and collecting the vapor in the manner already described. This will be found to be far more convenient and satisfactory than the process by distillation. In the case of a dog poisoned by a large dose of prussic acid, Mr. Hicks brought to me the stomach after it had been exposed twenty-four hours, and thoroughly washed under a current of water, and yet the poison was really detected by placing the whole organ in a bottle, and absorbing the vapor by nitrate of silver. This shows how completely the animal tissues at death are penetrated by prussic acid, and how firmly for a time it is retained by them. The poison has been thus discovered, in experiments on animals, in the blood and in the serous exhalation of the chest.

If the body is in a putrefied state the prussic acid may have been converted into fixed sulphocyanide of ammonium. In order to detect this salt in the stomach or its contents, we should digest the parts finely cut up in hot alcohol, filter the alcoholic liquid, evaporate to dryness, and take up any crystalline residue with water. A solution of a persalt of iron added to this will indicate the presence of a sulphocyanide by imparting to it an intensely red color. (See p. 173.)

Cyanide of Potassium.

Symptoms.—This salt has a bitter taste, producing first a sense of coldness on the tongue, followed by a feeling of constriction, and burning heat in the throat. It is one of the most formidable poisons known to chemists. It has destroyed life in a quarter of an hour. A dose of five grains has proved fatal in three instances. In one case the person died in two hours. ("Chem. News," Sept. 5, 1863.) The symptoms which the cyanide produces are similar to those occasioned by prussic acid; insensibility, spasmodic respiration, convulsions, with tetanic stiffness of the jaws and body. They appear in a few seconds or minutes, and run through their course with great rapidity.

Appearances.—In a case in which an inspection of the body was made two days after death, there was no remarkable odor; the muscles were rigid; the face and fore part of the trunk, pale; the back part livid, except those portions which had sustained pressure. The fingers and toes were convulsively bent inwards, the nails blue, eyelids half-closed, lips pale, the vessels of the brain filled with bluish-red (blaurothem) blood. On making a section of the brain and spinal marrow, bloody points were observed. The lungs were congested posteriorly, and on cutting into them, a strong odor of bitter almonds was perceived; a yellowish mucus was found in the stomach, which yielded on analysis cyanide of potassium. The mucous membrane was reddened near the intestinal end. The poison was not detected in any part of the body except the contents of the stomach and intestines. ("Casper's Wochenschrift." Oct. 4, 1845, 657.)

Cyanide of potassium has a local chemical action upon the skin; and if this is abraded or wounded, it may be absorbed and produce serious effects. Some accidents of this kind have occurred in the practice of photography. ("Ann. d'Hyg." 1863, vol. 1, p. 454.)

Analysis.—This substance is usually seen in hard white masses. It is deliquescent, and very soluble in water; the solution, when pure, is colorless, and has a strong alkaline reaction, a soapy feel, and a powerful odor of prussic acid. It is not very soluble in cold alcohol. 1. It is decomposed by all acids, and prussic acid is set free. 2. The potash is precipitated by tartaric acid and chloride of platinum. 3. It gives a white precipitate with nitrate of silver, which, when dried and heated, possesses all the properties of cyanide of silver (ante, p. 172). This precipitate is easily redissolved by a slight excess of the solution of cyanide of potassium. 4. If a solution of proto-sulphate of iron is added to a solution of the cyanide of potassium, and after agitation, diluted sulphuric acid, Prussian blue will result.

Essential Oil of Bitter Almonds.

This liquid, which is used for the purpose of giving flavor and odor to confectionery, owes its poisonous properties chiefly to the presence of prussic acid. It contains a variable quantity of this poison, which has been found in it in a proportion of from eight to twelve per cent. *Almond flavor* or essence of peach kernels contains one drachm of the essential oil to seven drachms of rectified spirit.

Symptoms.—The following may be taken as a summary: lividity of the face; eyes glassy, prominent, fixed and staring; pupils dilated and insensible to light; jaws spasmodically closed; frothy mucus about the mouth; in some cases, vomiting of food; coldness of the skin; heaving and intermittent respiration, in some instances stertorous; absence of the pulse; head spasmodically drawn backwards, and sometimes the trunk; general relaxation of the limbs; an odor of bitter almonds about the mouth.

Appearances.—In one fatal case nine hours after death no odor of almonds was perceptible in the chest, head, or heart, nor in the blood. The lungs and heart were healthy; the vessels of the brain were congested, and there was a general effusion of serum on the hemispheres. The lining membrane of the stomach was much congested. On opening it the odor of bitter almonds was quite perceptible. (See "Prov. Med. Jour." Sept. 11, 1844, p. 364.) The blood with which the venous system is gorged, is generally liquid and of a dark color.

Analysis.—The *essential oil*, which is often called peach-nut oil, is colorless when pure, but it commonly has a pale yellow color, and a strong odor of bitter almonds, by which it may be at once identified. It has a hot burning taste, and a feebly acid reaction. The smell and taste are generally sufficient for its identification; but nitrobenzole possesses the same odor, and has been mistaken for it. It produces when dropped on paper, a greasy stain which does not entirely disappear by the application of heat. It has a sp. gr. of 1.043; hence it

sinks in water, which dissolves about one-thirtieth part. It is soluble in alcohol and ether in all proportions. When mixed with a few drops of strong sulphuric acid, it forms a rich crimson-red liquid which, if exposed to air, acquires a yellow color. Prussic acid may be detected in it by dissolving the oil in alcohol and adding a solution of potash and green sulphate of iron. On the addition of a diluted acid Prussian blue remains.

Nitrobenzole.

This liquid, which is largely employed as a substitute for the essential oil of bitter almonds in perfumery and confectionery, has now taken its place among narcotic poisons. It has been mistaken for essential oil of bitter almonds, but its mode of operation is different. In 1859, the late Professor Casper, of Berlin, published an account of this liquid under the name of "A new Poison." ("Vierteljahrschrift," B. 16, p. 1.) Its effects on a rabbit and a dog are here described. Two drachms of it were given to a rabbit without any symptoms being produced; two drachms were then given to the animal at intervals of ten minutes or a quarter of an hour until the rabbit had taken one ounce. In a minute and a half after the last dose, the animal fell suddenly on its left side. The pupils were dilated, while the limbs and tail were strongly convulsed. The animal died in a minute. The dose was probably unnecessarily large, but the result shows that nitrobenzole in a large dose destroys life rapidly. On opening the body, the powerful odor of the liquid was everywhere perceptible, even in the blood. This odor remained strongly in the body when it was again examined fourteen days after death. Twenty cubic centimeters (about five drachms) given to a middle-sized dog produced no remarkable symptoms. After some hours the animal was observed to be dull and languid; in twelve hours there was profound coma with slow breathing and coldness of the skin: but there were no convulsions. The animal was then killed. All the solids and liquids of the body, including the blood, had a strong odor of nitrobenzole and some drops of the oily liquid were separated from the contents of the stomach. The fluid on which it floated had an alkaline reaction. The blood retained the odor for several days.

In reference to the *symptoms* produced in man, the cases which have yet occurred show that it is an insidious poison both in liquid and vapor. There is a burning taste in the mouth, followed by a sensation of numbness and tingling in the tongue and lips. There is no immediate insensibility, as in poisoning by prussic acid, and there are no convulsions. The eyes are bright and glassy, the features pale and ghastly, the lips and nails purple, as if stained by blackberries, the skin clammy and the pulse feeble. The mind may be clear for an hour, or several hours after the poison has been swallowed. The patient then becomes suddenly unconscious—the jaws fixed—the hands clenched and blue, and the muscles rigid and convulsed. In one case there was vomiting of a liquid having the odor of nitrobenzole. The breathing was slow and the pulse scarcely

perceptible. Reaction set in in about eleven hours, and recovery took place. ("Guy's Hospital Reports, Oct. 1864, p. 192.) In a case examined by Dr. Letheby, the *appearances* were as follows: the superficial vessels were much gorged with blood, which was black and fluid. The lungs were congested, the cavities of the heart were full of blood, the liver was of a purple color, the brain and its membranes were congested, and there was much bloody serosity in the ventricles.

This compound has a narcotic action, but it differs from the ordinary narcotics in its powerful and persistent odor, which would render it difficult for a person to administer it, either in liquid or vapor, unknowingly to another; in the production of profound coma at an uncertain interval after the stupor; and in the rapidly-fatal effects when coma has followed. It operates powerfully as a poison in vapor as well as in a liquid state; but so far as cases have been yet observed in the human subject, the symptoms resembling those of the first stage of narcotic poisoning have very soon appeared. The rapidly-fatal cases only would be likely to be mistaken for apoplexy, but in these the poison would be detected by its odor.

Analysis.—Nitrobenzole, or *Essence of Mirbane*, is a pale, lemon-colored liquid of a strong odor resembling that of bitter almonds. It has a pungent hot disagreeable taste. It gives to confectionery the smell but not the pleasant taste of oil of bitter almonds. It destroys the color of litmus, and gives a greasy stain to paper, leaving a yellow mark when the stain disappears. It sinks in water, and is partly dissolved, giving to it a yellowish color. It is soluble in alcohol, ether, and chloroform, but when agitated with water it is in great part separated from its ethereal and chloroformic solutions. It has no basic qualities; its aqueous solution is not precipitated either by tannic acid or the chloriodide of mercury and potassium. It is highly combustible, burning with a yellow smoky flame. It yields no Prussian blue when mixed with sulphate of iron, alcohol, and potash, and its vapor produces no cyanide of silver in a solution of the nitrate. It is distinguished from all other liquids, excepting the essential oil of almonds, by its odor, and from this oil by the following test: Pour a few drops of each on a plate and add a drop of strong sulphuric acid. The oil of almonds acquires a rich crimson color with a yellow border, the nitrobenzole produces no color. In order to separate it from organic liquids, they may be acidulated with sulphuric acid, and submitted to distillation.

CHAPTER XVIII.

ALCOHOL.—ETHER.—CHLOROFORM.—CAMPHOR.—TOBACCO.—NICOTINA.—COCCULUS INDICUS.—PICROTOXINE.—FUNGI.—HENBANE.

ALCOHOL.

Symptoms.—In general, the symptoms produced by alcohol come on in the course of a few minutes. There is confusion of thought, with inability to stand or walk, a tottering gait and giddiness, followed by stupor and coma. Should the person recover from this stage, vomiting supervenes. The insensibility produced by alcohol may not come on until after a certain period and then suddenly. Dr. Christison met with an instance in which a person fell suddenly into a deep stupor, some time after he had swallowed sixteen ounces of whisky—there were none of the usual premonitory symptoms. In another instance, a person may apparently recover from the first effects—then suddenly become insensible and die convulsed. There is a ghastly or vacant expression on the features, which are sometimes suffused and bloated, the lips are livid, and the pupils are dilated and fixed; if they possess the power of contracting under the influence of light, it is a favorable sign. The conjunctivæ or whites of the eyes are generally much suffused. The breath has an alcoholic odor. The more concentrated the alcohol, the more rapidly are the symptoms induced, and they are also more severe in their character. Diluted alcohol commonly produces a stage of excitement before stupor, while in the action of concentrated alcohol there may be profound coma in a few minutes. The cause of death may be generally traced to congestion of the brain or lungs or both. Alcohol may act as a poison by its *vapor*. If the concentrated vapor be respired, it will produce the usual effects of intoxication. There is a case on record in which a child two years of age was thrown into an apoplectic stupor by the alcoholic vapor of eau de Cologne. In this manner a child might be destroyed, and no trace of the poison found in the stomach.

Appearances.—The stomach has been found intensely congested or inflamed, the mucous membrane presenting in one case a bright red, and in another a dark red-brown color. When death has taken place rapidly, there may be a peculiar odor of spirits in the contents; but this will not be perceived if the quantity taken was small, or many hours have elapsed before the inspection is made. The brain and its membranes are found congested, and, in some instances, there is effusion of blood or serum beneath the inner membrane.

Analysis.—When a large dose has been taken and the case has

proved rapidly fatal, the contents of the stomach may have the odor of alcohol, or of the alcoholic liquid taken. The odor is not always perceptible, or it may be concealed by other odors. In a case of poisoning by gin, the liquid drawn from the stomach by the pump in seven hours had no odor. The smell of brandy has entirely disappeared in twelve hours. The whole of the contents or of the suspected liquid should be distilled in a water-bath, with a proper condensing apparatus attached. If the liquid has an acid reaction, it should be first neutralized either by a solution of carbonate of potash, or soda. The watery distillate obtained should be mixed with chloride of calcicum or anhydrous sulphate of copper in sufficient quantity, and submitted to a second distillation in a smaller retort, by a water-bath. The liquid obtained by the second distillation should be agitated with rather more carbonate of potash than it will dissolve, in a small tube provided with a stopper, and allowed to stand. A stratum of alcohol, if present, will, after a time, float on the surface, and may be drawn off by a pipette and examined. It may be identified by its odor, taste and inflammability.

Ether.

Symptoms and Effects.—Ether, in moderate doses, has a hot burning taste, and produces during swallowing a sense of heat and constriction in the throat. It causes, like alcohol, great excitement and exhilaration, with, subsequently, intoxication, but persons may become habituated to it, and thus after a time it may be taken in large quantities with comparative impunity. The effects produced on the system when a large dose has been taken are similar to those occasioned by alcohol. In the body of a dog poisoned by ether, the whole of the mucous membrane of the stomach was found of a blackish-red color, and with the other coats intensely inflamed. There was slight inflammation of the duodenum; but the rest of the alimentary canal was in a healthy condition. The heart contained black blood partly coagulated: the lungs were gorged with fluid blood. (Orfila, op. cit. ii. 531.) Ether as a liquid has not, so far as I know, destroyed the life of a human being; but when its vapor has been breathed, it has caused death in several instances. (See "On Poisons," 2d Ed., p. 731.)

Analysis.—When ether has been taken as a liquid it may be separated from the contents of the stomach by the process described for alcohol. It is well known by its odor and and inflammability.

Chloroform.

Symptoms.—Chloroform, when taken in a large dose, appears to affect the system like alcohol: but as a *liquid* it cannot be regarded as an active poison. A man swallowed *four ounces* of chloroform. He was able to walk for a considerable distance after taking this dose, but he subsequently fell into a state of coma—the pupils were dilated, the breathing was stertorous, the skin cold, the pulse im-

perceptible, and there were general convulsions. He recovered in five days. ("Med. Gaz.," vol. 47, p. 675.) A boy, æt. 4, was found by his father in a state of total insensibility. It appeared that he had swallowed a *drachm* of chloroform, and soon afterwards laid his head on his mother's lap, and then lost all consciousness. In about twenty minutes he was insensible, cold, and pulseless. Mustard plasters were applied to his legs; they acted well, but produced no impression on the sensibility. His breathing varied; it was sometimes natural, at other times stertorous. He became warmer, his pulse full and regular; and he continued *three hours* in this state, when he died quite calmly without a struggle, in spite of every effort made for his recovery. This is the smallest dose of liquid chloroform that has destroyed life.

Chloroform Vapor.—The vapor when respired in a concentrated form, is speedily fatal to life. If it is diluted with a certain proportion of air, it produces insensibility, with entire loss of muscular power, in from eight to ten minutes, and the patient rapidly recovers after the vapor is withdrawn. Cases of death from the inhalation of the vapor for surgical purposes are numerous, and the symptoms and post-mortem appearances are well-marked. ("On Poisons," 2d Edit. p. 738; also "Lancet," April, 1859, p. 400, and April 23, p. 425.) In some instances death has taken place within two minutes from the commencement of inhalation. In one in which only thirty drops had been taken in vapor, the patient died in one minute, and in another so small a quantity as fifteen or twenty drops proved speedily fatal. ("Table of Fatal Cases," by Dr. Warren, U. S. p. 23.) Its fatal effects do not depend so much on the absolute quantity as on the proportion in which it is breathed in a state of mixture with atmospheric air. It has been stated that the average proportion of this vapor for medicinal purposes, should not exceed 3½ per cent., and that 4½ is a maximum quantity to be taken with safety. The proportion should be only slowly increased. The vapor should not be given after a long fast, after a full meal, or while the person is in a sitting or erect posture. ("Ed. Monthly Jour.," Aug. 1864.) The vapor of this liquid operating through the lungs, has destroyed life more rapidly, and in a smaller dose than any other poison known. Its fatal operation is sometimes suddenly manifested apparently by an accumulative effect on the blood after the withdrawal of the vapor. In one case witnessed by a friend, the heart suddenly ceased to beat four minutes after the vapor had been withdrawn. The digital arteries which had been divided in the operation, ceased to bleed. The man was dead. The fatal effects are generally ascribed to idiosyncrasy or to the unforeseen condition of a fatty or flabby heart. Assuming this to be to some extent the true cause of the fatality, it must be admitted that fatty and flabby hearts have become very common since the introduction of chloroform vapor for surgical and other purposes. The theory of a flabby heart is quite unnecessary to explain the fatal results occasionally produced by chloroform vapor, even when administered by experienced persons. In January, 1866, a healthy man died in three minutes from the

effects of only two drachms of chloroform in vapor. This occurred on the operating table of a London hospital—the vapor having been administered by a gentleman who had given it previously to 300 or 400 patients. Death was sudden, and took place after some deep inspirations and expirations had been made. It was on this occasion candidly admitted that the body was quite healthy. In this and similar cases either the chloroform had been taken in too concentrated a form, or there may have been an idiosyncrasy in the patient to its narcotic poisonous action. In cases of alleged robbery and rape, it has been sometimes stated that the person assaulted was rendered suddenly insensible by chloroform: but chloroform vapor does not produce immediate insensibility, unless it also produces asphyxia and death.

Chloroform is a heavy colorless liquid, sp. gr. 1.484, neutral in its reaction, sinking in water in globules, and only to a slight extent dissolving in this liquid. It has a fragrant odor, like that of apples. It is very volatile, but not combustible, and, like alcohol, dissolves camphor.

Camphor.

Symptoms and Appearances.—Camphor operates on the brain and nervous system. In one case which occurred to Mr. Hallet, a woman swallowed in the morning about *twenty grains* dissolved in rectified spirits of wine and mixed with tincture of myrrh. In half an hour she was suddenly seized with languor, giddiness, occasional loss of sight, delirium, numbness, tingling and coldness of the extremities, so that she could hardly walk. The pulse was quick and respiration difficult, but she suffered no pain in any part. On the administration of an emetic, she vomited a yellowish liquid smelling strongly of camphor. In the evening, the symptoms were much diminished, but she had slight convulsive fits during the night. The next day she was convalescent; the difficulty of breathing, however, continued more or less for several weeks. This is the smallest dose of camphor which appears to have been attended with serious symptoms in an adult. It has proved fatal to infants and children, the symptoms being chiefly vomiting and purging, with violent convulsions.

A case of poisoning by camphor would be recognized by the odor of the breath, a symptom which would attract the attention of a non-professional person. The presence of this substance in the stomach would be at once indicated by its odor.

Tobacco.

Symptoms.—The effects which tobacco produces, when taken in a large dose, either in the form of powder or infusion, are well-marked. The symptoms are faintness, nausea, vomiting, giddiness, delirium, loss of power in the limbs, general relaxation of the muscular system, trembling, complete prostration of strength, coldness of the surface with cold clammy perspiration, convulsive movements, paralysis, and death. In some cases there is purging, with

violent pain in the abdomen; in others there is rather a sense of sinking or depression in the region of the heart passing into syncope, or creating a feeling of impending dissolution. With the above-mentioned symptoms there is dilatation of the pupils with insensibility to light, dimness of sight with confusion of ideas, a small, weak, and scarcely perceptible pulse, difficulty of breathing and involuntary discharge of urine. Tobacco owes its poisonous properties to the presence of a liquid volatile alkaloid, *Nicotina*.

Nicotina.—This is a deadly poison, and like prussic acid it destroys life in small doses with great rapidity. I found that a rabbit was killed by a single drop in three minutes and a half. In fifteen seconds the animal lost all power of standing, was violently convulsed in its fore and hind legs, and its back was arched convulsively (opisthotonos). A frothy alkaline mucus escaped from its mouth having the odor of nicotina. ("Guy's Hospital Reports," Oct. 1858, p. 355.) A case of poisoning by this alkaloid which occurred in Belgium in 1851, was the subject of a trial for murder. ("Ann. d'Hyg.," 1851, 2, pp. 167 and 147.) In another case which proved fatal in from three to five minutes, the appearances observed were a general relaxation of the muscles, prominent and staring eyes, bloated features, great fulness, with lividity about the neck. There was no odor resembling nicotina or tobacco perceptible about the body. When the body was examined between two and three days after death, putrefaction had occurred. The swelling of the neck was found to arise from an effusion of dark liquid blood, especially in the course of the veins. The scalp and the membranes of the brain, were filled with dark-colored blood. The lungs were engorged, and of a dark purple color. The cavities of the heart were empty, with the exception of the left auricle, which contained two drachms of dark-colored blood. The stomach contained a chocolate-colored fluid, in which nicotina was detected: the mucous membrane was of a dark crimson red color from the most intense congestion. There was no odor excepting that of putrefaction. The liver was congested and of a purple black color. The blood throughout the body was black and liquid, but in some parts it had the consistency of treacle.

Levant Nut. (Cocculus Indicus.)

Symptoms and Effects.—This is the fruit or berry of the Anamirta Cocculus (*Levant Nut*), imported from the East Indies. The berry contains from one to two per cent. of a poisonous principle (*Picrotoxine*). The shell or husk contains no picrotoxine but a non-poisonous principle called menispermine. The seeds, in powder or decoction, give rise to nausea, vomiting, and griping pains, followed by stupor and intoxication. There are, so far as I am aware, only two well-authenticated instances of

Fig. 20.

a Berry of Cocculus Indicus, natural size.
b The same seen in section with one-half of the semi-lunar kernel.
c The kernel, containing picrotoxine.

this substance having proved fatal to man. Several men suffered from this poison in 1829, near Liverpool: each had a glass of rum strongly impregnated with cocculus indicus. One died that evening; the rest recovered. ("Traill's Outlines," 146.) Of the second case, the following details have been published. A boy, æt. 12, was persuaded by his companions to swallow two scruples of the composition used for poisoning fish. It contained cocculus indicus. In a few minutes he perceived an unpleasant taste, with burning pain in the gullet and stomach, not relieved by frequent vomiting—as well as pain extending over the whole of the abdomen. In spite of treatment, a violent attack of gastro-enteritis supervened, and there was much febrile excitement, followed by delirium and purging, under which the patient sank on the nineteenth day after taking the poison. On inspection, the vessels of the pia mater were congested with dark-colored liquid blood. There was serous effusion in the ventricles of the brain, and the right lung was congested. In the abdomen there were all the marks of peritonitis in an advanced stage. The stomach was discolored, and its coats were thinner and softer than natural. (Canstatt, "Jahresbericht," 1844, 5, 298.) Porter, ale, and beer owe their intoxicating properties in some instances to a decoction, or extract of these berries. For some remarks on this adulteration of beer and other liquids, and a process for separating the poisonous principle, picrotoxine, by amylic alcohol, see "Chemical News," March 12, 1864, p. 123. Cocculus indicus operates readily as a poison on animals, and it has thus been frequently used for the malicious destruction of fish and game. In one instance referred to me, there was reason to believe that 270 young pheasants had been poisoned by grain soaked in a decoction of this substance. *Barber's poisoned wheat* for the destruction of birds owes its poisonous properties to cocculus indicus. (Horsley.)

The poisonous principle of the berry of cocculus indicus is called *picrotoxine*. It has a remarkably bitter taste.

Poisonous Mushrooms (Fungi).

Symptoms and Effects.—The noxious species of mushrooms act sometimes as narcotics, and on other occasions as irritants. It would appear from the reports of several cases, that when the narcotic symptoms are excited, they come on soon after the meal at which the mushrooms have been eaten, and they are chiefly manifested by drowsiness, giddiness, dimness of sight, and debility. The person appears as if intoxicated, and there are sometimes singular illusions of sense. The pupils are dilated. Spasms and convulsions have been occasionally witnessed among the symptoms, chiefly in fatal cases. When the drowsiness passes off, there is generally nausea and vomiting; but sometimes vomiting and purging precede the stupor. If the symptoms do not occur until many hours after the meal, they partake more of the characters of irritation; indicated by pain and swelling of the abdomen, vomiting and purging. In a recent case of poisoning by mushrooms, there was slight vomiting about an hour and a half after the meal; but no violent symptoms

until after the lapse of ten hours. Several cases, in which the symptoms did not appear for fourteen hours, are reported in the "Medical Gazette" (vol. 25, p. 110). In some instances the symptoms of poisoning have not commenced until thirty hours after the meal; and in these, narcotism followed the symptoms of irritation. It might be supposed that these variable effects were due to different properties in the mushrooms; but the same fungi have acted on members of the same family, in one case like irritants, and in another like narcotics. In most cases recovery takes place, especially if there is early vomiting. In the instances which have proved fatal, there has been greater or less inflammation of the stomach and bowels, with congestion of the vessels of the brain. (See "Med. Gaz." vol. 46, p. 307; vol. 47, p. 673; and "Journ. de Chimie Méd." 1853, p. 694.)

In the Guy's Hospital Reports for October, 1865, p. 382, I have recorded two fatal cases—a mother and daughter, who died from the effects of the *Amanita citrina;* a yellow-colored fungus, gathered in mistake for mushrooms. The woman fried the fungi, and they were eaten for supper. No symptoms appeared for seven hours. The child when seen by a medical man was feverish and thirsty, and the pupils were strongly dilated. There was severe pain in the stomach, and a sense of constriction in the throat. The child became convulsed and insensible, and died forty-one hours after eating the fungi. The mother and another child suffered from similar symptoms; the mother partially recovered, but had a relapse, and died on the fifth day. No inspection of the bodies was made.

These fungi can only be recognized by their botanical characters. Portions of them may be found in the food, or in the contents of the stomach, but if there has been vomiting and purging, it is probable that the whole of the substance will be expelled. Fungi contain but little solid matter.

Henbane. (Hyoscyamus niger.)

Symptoms and Appearances.—The seeds, roots, and leaves of this plant are poisonous. When the dose is not sufficient to destroy life, the symptoms are: general excitement, fulness of the pulse, flushing of the face, weight in the head, giddiness, loss of power and tremulous motion of the limbs, somnolency, dilatation of the pupils, double vision, nausea, and vomiting. After a time these symptoms pass off, leaving the patient merely languid. When a large quantity of the *root* or *leaves* has been eaten, an accident which has occurred from the plant having been mistaken for other vegetables, more serious effects are manifested. In addition to the above symptoms in an aggravated form, there will be loss or incoherency of speech, delirium, confusion of thought, insensibility, coma, and sometimes, a state resembling insanity; the pupils are dilated and insensible to light, there is coldness of the surface, cold perspiration, loss of power in the legs, alternating with tetanic rigidity and convulsive movements of the

Fig. 21.

Seeds of Henbane.
a Natural size.
b Magnified 30 diameters.

muscles, the pulse small, frequent, and irregular, the respiration deep and laborious. (See "Med. Gaz." vol. 47, p. 640.) Occasionally there is nausea with vomiting and purging. Death may take place in a few hours or days, according to the severity of the symptoms. The special effect of this poisonous plant is manifested in its tendency to produce a general paralysis of the nervous system.

(SPINAL POISONS.)

CHAPTER XIX.

NUX VOMICA.—STRYCHNIA.—SYMPTOMS AND APPEARANCES.—CHEMICAL AND MICROSCOPICAL ANALYSIS OF NUX VOMICA AND STRYCHNIA.—PROCESS FOR ORGANIC MIXTURES.—BRUCIA.

NUX VOMICA. STRYCHNIA.

Symptoms.—At a variable interval after taking either nux vomica or strychnia in a poisonous dose, the person experiences a sense of uneasiness and restlessness, accompanied by a feeling of impending suffocation. There is a shuddering or a trembling of the whole frame, with twitchings and jerkings of the head and limbs. Tetanic convulsions then commence suddenly with great violence, and nearly all the muscles of the body are simultaneously affected. The limbs are stretched out involuntarily, the hands are clenched; the head after some convulsive jerkings is bent backwards, and the whole of the body becomes as stiff as a board. As the convulsions increase in frequency and severity, the body assumes a bow-like form (opisthotonos), being arched in the back and resting on the head and heels. The head is firmly bent backwards, and the soles of the feet are incurvated or arched and everted, the legs sometimes separated. The abdomen is hard and tense, and the chest spasmodically fixed, so that respiration appears to be arrested. The face assumes a dusky, livid or congested appearance, with a drawn, wild or anxious aspect, the eyeballs are prominent and staring, and the lips are livid. The intellect is clear, and the sufferings, during this violent spasm of the voluntary muscles, are severe. The patient in vain seeks for relief in gasping for air and in requiring to be turned over, moved or held. The muscles of the lower jaw, which are the first to be affected in tetanus from disease, are generally the last to be affected by this poison. The jaw is not always fixed during a paroxysm. The patient can frequently speak and swallow, and great thirst has been observed among the symptoms. In some cases of poisoning by nux vomica, the jaw has been fixed by muscular spasm; but, unlike the lock-jaw of disease, this has come on suddenly in full intensity with tetanic spasms in other muscles, and there have been intermissions which are not witnessed in the tetanus of disease. The sudden and

universal convulsion affecting the voluntary muscles has sometimes been so violent that the patient has been jerked off the bed. After an interval of half a minute to one or two minutes, the convulsions subside, there is an intermission, the patient feels exhausted, and is sometimes bathed in perspiration. It has been noticed in some of these cases that the pupils during the paroxysm are dilated, while in the intermission they are contracted. The pulse during the spasms is so quick that it can scarcely be counted. Slight causes, such as an attempt to move, a sudden noise, or gently touching the patient, will frequently bring on a recurrence of the convulsions. In cases likely to prove fatal, they rapidly succeed each other and increase in severity and duration until at length the patient dies utterly exhausted. The tetanic symptoms produced by strychnia, when once clearly established, progress rapidly either to death or recovery. The person is conscious, and the mind is commonly clear to the last. He has a strong apprehension of death. The duration of the case, when the symptoms have set in, is reckoned by minutes, while in the tetanus of disease, when fatal, it is reckoned by hours, days, and even weeks. As a general statement of the course of these cases of poisoning, within two hours from the commencement of the symptoms the person either dies or recovers, according to the severity of the paroxysms and the strength of his constitution. Death sometimes takes place in a paroxysm. (See case by Mr. Lawrence, "Lancet," June, 1861, p. 572.)

The *time at which the symptoms commence* appears from the recorded cases to be subject to great variation. In poisoning by nux vomica the symptoms are generally more slow in appearing than in poisoning by strychnia. Until they set in suddenly, the patient is capable of walking, talking, and going through his or her usual occupations. In a case which occurred to M. Pellarin, a man swallowed about 300 grains of nux vomica and no symptoms appeared for two hours. He died speedly in a violent convulsive fit. ("Ann. d'Hyg." 1861, vol. 2, p. 431.) On an average in poisoning by strychnia the symptoms appear in from five to twenty minutes.

Appearances after Death.—In general the body is relaxed at the time of death, and stiffens afterwards: but the commencement and duration of the rigid state depend on various conditions.

Among the *internal* appearances which have been met with in different cases, are congestion of the membranes and substance of the brain, as also of the upper part of the spinal marrow, with congestion of the lungs. The heart is contracted and empty; but its right cavities in some instances have been distended with liquid blood. The blood has been found black and liquid throughout the body. The mucous membrane of the stomach has occasionally presented slight patches of ecchymosis or congestion, probably depending on extraneous causes; such as the process of digestion—the presence of food—or of alcoholic liquids. In most instances the stomach and intestines have been found quite healthy, and it is not in the nature of this poison either to inflame or irritate the mucous membrane. Of the appearances observed in poisoning by strychnia, there are

none which can be considered strictly characteristic. Congestion of the membranes of the brain and spinal marrow is probably the most common.

The *sixteenth part of a grain* of strychnia killed a child between two and three years of age in four hours. The smallest fatal dose in an adult was in the case of *Dr. Warner*. *Half a grain* of the sulphate of strychnia here destroyed life. ("On Poisoning by Strychnia," pp. 138, 139.) So powerful are the effects of this drug in certain cases, that ordinary medicinal doses can scarcely be borne. Symptoms of its poisonous action have frequently been unexpectedly produced.

With respect to *nux vomica*, three grains of the alcoholic extract have destroyed life. The smallest fatal dose of nux vomica in powder was in a case reported by Hoffmann, and quoted by Christison (p. 901), also by Trail ("Outlines," p. 137). *Thirty grains* of the powder, given in two doses of fifteen grains each, proved fatal. The poison was given by mistake for bark to a patient laboring under quartan fever. This is about equivalent to the weight of one full-sized seed, and to only one-third of a grain of strychnia in two doses.

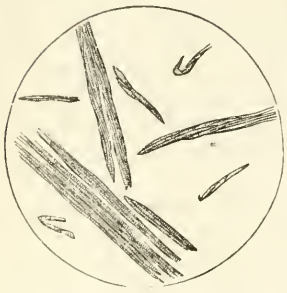
In fatal cases death generally takes place within two hours after the taking of strychnia. One of the most rapidly fatal cases recorded is that of *Dr. Warner*. The symptoms commenced in five minutes and he was dead in *twenty minutes*. In the case of J. P. Cook, the symptoms commenced in an hour and a quarter, and he died in *twenty minutes*. In poisoning by *nux vomica*, death may occur within two hours; but Dr. Christison mentions a case in which a man died in *fifteen minutes* after taking a dose. This is probably the shortest period known.

Vermin and Insect Killers.—Although it is difficult to procure strychnia at a druggist's shop, it is extensively sold to the public by grocers, oilmen, and others, under the name of Vermin Killers, in threepenny and sixpenny packets. *Butler's Vermin Killer* consists of a mixture of flour, soot, and strychnia. I have found the sixpenny packet to weigh about a drachm, and to contain from two to three grains of strychnia. As the poison is mechanically mixed with the other ingredients, and is probably manufactured on a large scale, the proportion of strychnia is liable to variation. The threepenny packet contains about half the quantity of strychnia, but this is quite sufficient to destroy the life of an adult. In place of soot, Prussian blue is sometimes used as a coloring substance. *Battle's Vermin Killer* is a powder similar to that of Butler, containing a fatal proportion of strychnia, as it is sold in packets. These powders are a fertile source of poisoning either through accident or design; they are openly sold by ignorant people to others still more ignorant.

Chemical Analysis.—*Nux vomica* is well known as a flat round kernel, about the size of a shilling, with radiating silken fibres, slightly raised in the centre. It is of a light brown color, and covered with a fine silky down. (See Fig. 22.) It is very hard, brittle, tough, and difficult to pulverize. The powder is of a gray brown

color, like that of liquorice; it is sometimes met with in a coarsely rasped state; it has an intensely bitter taste; it yields to water and alcohol, strychnia, brucia, igasuric, or strychnic acid, and some common vegetable principles. Heated on platinum foil, it burns with a yellow smoky flame. Nitric acid turns it of a dark orange-red color, which is destroyed by chloride of tin. These proportions are sufficient to distinguish it from various medicinal powders which it resembles. The *aqueous infusion* or *decoction* is deeply reddened by nitric acid, and is freely precipitated by tincture of galls. Persulphate of iron gives with it an olive-green tint. The fine silky fibres or hairs which cover the surface of the seed may be obtained by washing the residue of the powder in the stomach, or the sediment of any liquid with which the vomica may have been mixed. As in other poisonous seeds or roots, the strychnia is slowly removed from the powder by the absorbent vessels of the stomach, and carried into the blood, until that liquid is sufficiently impregnated with the poison to produce symptoms. The powder itself remains, as it is unalterable by the fluids of the stomach.

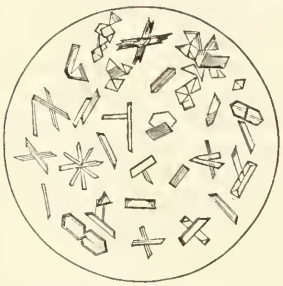
Fig. 22.



Hairs of Nux Vomica, magnified 124 diameters.

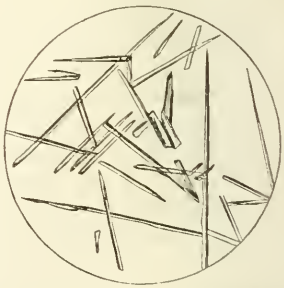
Strychnia.—The alkaloid may be readily obtained crystallized from an alcoholic solution. The crystal is very small, and its form is subject to great variation, according to the strength of the solution, rapidity or slowness of evaporation, the presence of foreign matters, &c. It is commonly seen in octahedra, sometimes lengthened into prisms of a peculiar shape, bevelled at the ends, and crossing each other at angles of 60°. (See Fig. 23.) There are as many as six or eight varieties of crystals, so that too much importance must not be attached to this branch of the analysis. As strychnia is procured from the solutions of its salts by the addition of ammonia, it is usually deposited in long slender prisms. (Fig. 24.)

Fig. 23.



Various forms of Crystals of Strychnia, as they were obtained from an alcoholic solution. Magnified 224 diameters.

Fig. 24.



Crystals of Strychnia obtained by adding ammonia to the sulphate. Magnified 124 diameters.

1. Strychnia is white, of an intensely bitter taste, even when it forms only 1-30,000th part of a solution. 2. When heated on platinum, it melts and burns like a resin, with a black smoky flame; in a close tube it yields ammonia. 3. It is not perceptibly dissolved by cold water; it requires 7,000 parts for its solution. 4. It is easily dissolved by acids, and is precipitated from the concentrated solutions by potash, in which it is insoluble. 5. Strong nitric acid imparts to it a reddish color, owing to the presence of brucia. 6. Sulphuric acid produces no apparent change in it; but when to the mixture a small crystal of bichromate of potash, of ferricyanide of potassium, or a small quantity of black oxide of manganese or of peroxide of lead, is added a series of beautiful blue, purple, and violet colors appear, which pass rapidly to a light flesh-red tint. Among these substances black oxide of manganese will be found preferable.

Mr. Horsley has suggested that a solution of strychnia should be sufficiently concentrated, and then precipitated by chromate of potash; the crystals may be examined microscopically; they are generally seen in tufts of radiated prisms of a yellow color. On being touched with strong sulphuric acid, the color reactions of strychnia are at once brought out.

In *Organic mixtures* a modification of the process originally suggested by Stas is employed for the separation of this poison. The principle of its operation consists in dissolving the strychnia by a gentle heat out of the tissue or organ finely cut up, by means of rectified spirit mixed with a small quantity of acetic acid. The liquid is strained, and the residue well pressed and washed with alcohol; the acid solution of strychnia thus obtained is concentrated in a water-bath. The concentrated liquor is neutralized by potash, and a slight excess of alkali is added. The alkalized liquid is then shaken in a long stoppered tube, with twice its volume of ether, or a mixture, consisting of two parts of ether and one of chloroform. These liquids dissolve the strychnia set free by the alkali. The ethereal solution is separated from the watery liquid by a pipette, and submitted to spontaneous evaporation, when, if strychnia is present, the alkaloid will be obtained, but generally associated with oily and other organic matters, which interfere with the production of crystals. The impure residue left by the ether is heated in a water-bath, with a few drops of strong sulphuric acid; this destroys the organic matter. Water is added, and the acid liquid is filtered through paper, neutralized by potash, and again treated with ether, when strychnia will be obtained in small and slender prisms. The crystals, after an examination by the microscope (see Fig. 24, p. 188), are treated with sulphuric acid and peroxide of manganese, and the

Fig. 25.

Crystals of Chromate of Strychnia magnified 124 diameters.

color-reactions of strychnia, if the alkaloid is present, will appear. Mr. Bloxam has recommended the use of benzole in place of ether. Strychnia is freely soluble in benzole, and this liquid will remove the alkaloid from water, when precipitated by an alkali. The crystals of strychnia deposited from the benzolic solution are isolated, and in the form of truncated octahedra. When the residue from benzole is treated with sulphuric acid, it requires a pinkish tinge. The color tests for strychnia added to the mixture act but slowly, and the only one which acts satisfactorily is the peroxide of manganese. It produces an intense blue, which is a long time in passing to the purple and red shades. Benzole appears to be a better solvent of strychnia than ether.

[*Influence of Morphia in disguising the usual Color-test.*—Dr. John J. Reese, of Philadelphia, called attention, at a meeting of the College of Physicians of Philadelphia, held September 4th, 1861, to some experiments with which he had confirmed the fact noticed by Dr. T. G. Wormley ("Ohio Medical and Surgical Journal," September, 1859), that the presence of morphia masks the color-test of strychnia. Dr. Reese had been led to undertake the investigation by his want of success in detecting strychnia in the stomach and a portion of the small intestine of a woman who was proved by the moral evidence, and the subsequent confession of the accused, to have been poisoned with strychnia by her husband. The parts submitted to analysis were sent to Dr. Reese eight weeks after death, the body not having been disinterred until the elapse of six weeks. The woman took about four grains of the poison, and survived five or six hours. Notwithstanding a very careful examination of the contents of the stomach, of the contents of the intestine, and of the tissues themselves, twice in each instance, by the method of Stas, he failed to discover either the bitter taste or the play of colors. Nor was he able to obtain a frog at that time of year in order to try the physiological test of Marshall Hall. Having ascertained that the woman, shortly before her death, had taken by prescription a quarter of a grain of morphia with a little ipecacuanha, which was not vomited, he suspected the agency of the morphia in embarrassing his search for the evidence of strychnia. He immediately instituted a series of experiments by which he ascertained conclusively that "morphia does unquestionably possess the power, when present in excess, of completely disguising the usual color-test of strychnia; and this is emphatically the case when they are associated in organic mixtures, as in the contents of the stomach. Consequently this fact should always be taken into account in medico-legal investigations." This effect of morphia seems to have escaped the observation of Dr. Guy, who, in a recent paper ("Chemical News, July 6, 1861), as Dr. Reese remarks, has stated as the result of his experiments with a great variety of substances which would be likely to remain mixed with strychnia when extracted from the contents of the stomach or from the fluids and tissues of the body, "that the color-tests are little, if at all, affected by such admixtures."

Dr. Reese attaches great value to the play of colors, *under the con-*

joined agency of certain oxidizing bodies and sulphuric acid, as quite peculiar to strychnia, this being the result is no other substance now known. Other organic principles, including the woorara (curara) poison, do yield a color with sulphuric acid *alone*, but there is not one that will strike the peculiar blue tint with the acid and oxidizing body *conjointly*. The curarina of the curara, which is cited by Dr. Taylor ("Poisons," 2d Am. ed., 1859, p. 680), further differs from strychnia in giving a rich carmine tint with sulphuric acid alone, whereas, the acid by itself, causes no change of color with pure strychnia. The extreme delicacy of the color-test is also shown by Dr. Reese. Another confirmatory test of value is the excessive bitterness of taste, in which he ascertained strychnia to be strikingly pre-eminent above other well known bitter articles. Among these he specified extract of quassia, carbazotic acid, aloes, extract of colocynth, sulphate of quinia, picrotoxine, and the salts of morphia, in regular order of succession, as to bitterness.

The frog-test was very carefully and abundantly investigated by Dr. Reese and found to be extremely delicate. He considers it of very great importance as *corroborative* evidence, and one which never ought to be omitted in medico-legal research. "Taken in conjunction with the delicate color-test already alluded to, and the bitter taste of the evaporated extract, it affords such overwhelming proof of the presence of strychnia as can admit of no possibility of cavil."

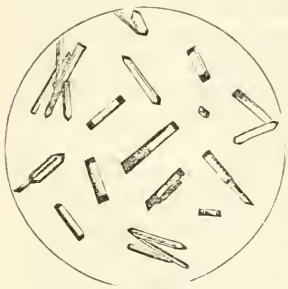
Further experiment convinced him that morphia rather aggravated than diminished the tetanizing action of strychnia on frogs; so that "the presence of morphia, although most seriously interfering with one of our means of detecting this poison, viz., the *color-test*, most fortunately produces no impression on the almost equally delicate *frog-test*."

The *microscopy* of strychnia also occupied Dr. Reese's attention, as one of great delicacy and beauty, and well worth employing in corroboration, so far as practicable, which is only the case when the alkaloid is in a state of purity.. He has succeeded best "by evaporating a drop of a solution in pure water of known strength on a glass slide, and subjecting it to the field of a good instrument. Very satisfactory results may be obtained by using quantities as small as the 1-50,000th to the 1-500,000th of a grain; although even the 1-1,000,000th may easily be recognized. The appearance presented to the eye is that of numerous crystals; some are circular and others stellate and scolloped, intermingled with dentated crosslets, the whole bearing a striking resemblance to the appearance presented by the arborescent crystals of the triple phosphate seen in a drop of the evaporated urine."—See, for a full account of the subject of this note, and a detailed account of the experiments alluded to, a most interesting paper by Dr. Reese in the "Am. Journ. of Med. Sci., Oct. 1861, p. 409, "On the Detection of Strychnia as a Poison, and the Influence of Morphia in disguising the usual Color-test.—H.]

Brucia.—Brucia is an alkaloid generally associated with strychnia in the seeds of nux vomica, but it is more abundantly contained in the bark of the tree. It is not so powerful a poison as strychnia, but

the symptoms which it produces are similar. It is considered to have about one-sixth of the strength of strychnia. It is not affected by the color-tests employed for the detection of strychnia, and it acquires an intense red color on the addition of nitric acid. It is much more soluble in water than strychnia, and has a bitter taste. Its aqueous solution is strongly alkaline, and by spontaneous evaporation it yields groups of slender prismatic crystals arranged in a fan-like shape. Unlike strychnia, it cannot be crystallized from a solution in benzole, and only imperfectly from a solution in alcohol. Hydrochloric and iodic acids produce in it no change, either in the cold or when heated. Sulphuric acid gives to it a pink red color without carbonizing it. The sulphate of brucia crystallizes in well-defined prisms truncated at the ends. They are larger and longer than the prisms of strychnia. (See Fig. 26.) From a case of poisoning with this alkaloid which has occurred to Dr. Edwards of Liverpool, it is necessary to give a caution to medical men respecting the possible criminal use of brucia. The symptoms which it causes so closely resemble those of poisoning with strychnia that in the event of death the latter poison only may be sought for and not found. The tetanic symptoms are more slowly produced, and the poison is not so rapidly fatal as strychnia, but these conditions may be altered by the large quantity given. When in any suspected case, the color-tests for strychnia fail to show the presence of this alkaloid, nitric acid should be added to the crystalline residue obtained, as in the process for strychnia, by the use of ether or chloroformic ether. The intense reddening produced by this test, with the other characters above mentioned, will indicate the presence of brucia.

Fig. 26.



Crystals of Sulphate of Brucia, magnified 124 diameters.

[Strychnia is largely consumed by the hunters and farmers in the United States as a poison for dogs, wolves, and other carnivorous animals; and cases of unintentional and accidental poisoning with it are more common in this country than formerly. A committee of the American Pharmaceutical Association estimated, in 1853, that between five and six thousand ounces are annually manufactured in this country from about one hundred and twenty thousand of nux vomica, besides what is imported. "Proc. of the Am. Pharmac. Assoc." 1853, p. 11.—H.]

(CEREBRO-SPINAL POISONS.)

CHAPTER XX.

CONIUM MACULATUM.—HEMLOCK.—CONIA.—ŒNANTHE CROCATA.—ÆTHUSA CYNAPIUM.—ACONITE OR MONKSHOOD.—ACONITINA.

COMMON OR SPOTTED HEMLOCK. (CONIUM MACULATUM.)

Symptoms and Appearances.—The effects produced by hemlock have not been uniform; in some instances there have been stupor, coma, and slight convulsions: while in other cases, the action of the poison has been chiefly manifested on the spinal marrow—*i. e.* it has produced paralysis of the muscular system. A man ate a large quantity of hemlock-plant, by mistake for parsley. In from fifteen to twenty minutes there was loss of power in the lower extremities; but he apparently suffered no pain. In walking, he staggered as if he was drunk; at length his limbs refused to support him, and he fell. On being raised, his legs dragged after him, and when his arms were lifted, they fell like inert masses, and remained immovable. There was perfect paralysis of the upper and lower extremities within two hours after he had taken the poison. There was loss of power of swallowing, and a partial paralysis of sensation, but no convulsions, only slight occasional motions of the left leg; the pupils were fixed. Three hours after eating the hemlock, the respiratory movements had ceased. Death took place in three hours and a quarter; it was evidently caused by gradual asphyxia from paralysis of the muscles of respiration; but the intellect was perfectly clear until shortly before death. On *inspection*, there was slight serous effusion beneath the arachnoid membrane. The substance of the brain was soft; on section there were numerous bloody points, but the organ was otherwise healthy. The lungs were gorged with dark fluid blood; the heart was soft and flabby. The stomach contained a green-colored pulpy mass resembling parsley. The mucous coat was much congested, especially at its greater end. Here there were numerous extravasations of dark blood below the membrane, over a space of about the size of the hand. The intestines were healthy, here and there presenting patches of congestion in the mucous coat. The blood throughout the body was fluid, and of a dark color.

In a case which was the subject of a trial for murder (*Reg.* v. *Bowyer*, Ipswich Summer Assizes, 1848), the child died in one hour after swallowing part of a teacupful of a decoction of hemlock, alleged to have been administered by the mother. The child sipped the decoction, until it lost the power of holding the cup: it became insensible and paralyzed, and died in the chair in a sitting posture.

There were no morbid appearances, and no hemlock leaves were found in the body, these having subsided in the cup, and being left in the dregs. The child had been poisoned by the upper stratum of clear liquid. The mother was acquitted for want of proof, the death of the child having taken place in secrecy.

Fig. 27.

a Seed of Hemlock, natural size.
b The same, magnified 30 diameters.
c Group of Seeds.

Hemlock is known from most other plants which resemble it by its large round smooth stem, with dark purple spots. The leaves are of a dark green color, and smooth and shining. Every portion of the plant has a peculiar and disagreeable smell when bruised, resembling cat's urine, or, according to some, the odor of mice. It is strongly brought out when the stem, leaves, or seeds are rubbed with a solution of caustic potash. An illustration of the *seeds* of hemlock, is annexed (Fig. 27.) They are peculiar in their form, and are easily distinguished from the seeds of other umbelliferous plants. A person may be poisoned by a decoction of *leaves* of hemlock, and no leaves be found in the stomach or bowels (case of *Bouyer*, supra.) In this case the stomach had been emptied, and the contents lost, before it was sent to me! No trace of conia was found.

The poisonous alkaloid of hemlock is known under the names of *Conia*, conein, conicine, and conicina. It resembles nicotina and ammonia in its liquidity, volatile reaction, and in some of its chemical properties. It is a liquid of oily consistency, of a pale yellow color, powerfully alkaline, and has, when its vapor is diluted, a smell resembling that of mice, and an acrid bitter taste. It gives a volatile greasy stain to paper, and burns with a yellow flame and thick smoke. 1. It is not colored or affected by nitric, sulphuric, or hydrochloric acid; the last-mentioned acid produces with it, dense white fumes of hydrochlorate of conia, and on heating the mixture, this salt remains in prismatic crystals. 2. It is not dissolved by water, but floats on it in oily globules. 3. It is soluble in alcohol and ether, and this last-mentioned liquid removes it from its aqueous solution, and leaves it in oily globules on evaporation. In reference to its presence in *organic mixtures*, it may be detected by its peculiar odor, or by distilling the liquid with a solution of potash and examining the distillate.

The reactions produced by tests on small quantities should be distrusted, unless there is strong evidence of the action of the poison on the body from the symptoms.

Water-Hemlock. (Cicuta Virosa.)

Symptoms and Appearances.—The symptoms produced by the roots of this plant are giddiness, dimness of sight, headache, and difficulty of breathing. There is burning pain in the stomach, with vomiting,

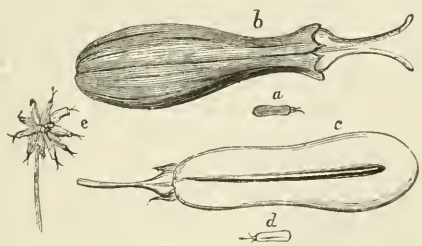
and these symptoms are accompanied by heat and dryness of the throat. Convulsions have been observed to precede death. In the cases of three children in convulsions from this poison, Mertzdorff found an injected state of the mucous membrane of the stomach, with redness of the air-passages, as well as of the cardia, and pylorus; the vessels of the brain and the sinuses were filled with dark liquid blood. (Wibmer, "Cicuta," 119.)

Hemlock Water-Dropwort. (Œnanthe Crocata.)

This umbelliferous plant grows on the banks of rivers, streams, and ditches. It is one of the most poisonous of the order, and is considered to be one of the most virulent of English vegetable poisons.

Symptoms and Appearances.—In April, 1857, two cases of poisoning with this plant occurred at West Boldon in Durham. Two laborers ate some of the roots of the œnanthe. They were found soon afterwards lying insensible and speechless, their faces livid, tongues swollen and protruded, and there were convulsive movements of their teeth, frothy mucus with blood about their mouths, eyes full and projecting, pupils dilated, breathing stertorous and labored, with occasional general convulsions. They both died in an hour and a half from the time at which they were first discovered. On *inspection*, it was found that there had been bleeding from the ears; the abdomen was livid and swollen. The stomach contained a gruelly liquid with some of the partly digested roots: on removing this liquid, the membrane was found congested and softened. The lungs were engorged with dark liquid blood, and the blood contained in the heart was in a similar state. Mr. Boyle, to whom these cases occurred, forwarded to me a portion of the roots, and there was no doubt that they were the roots of the œnanthe crocata. (For other cases see "Medical Gazette," vol. 34, p. 288.)

Fig. 28.



Seeds of Œnanthe Crocata. *a* Natural size. *b* Magnified 30 diameters. *c* One-half of a seed magnified. *d* One-half natural size. *e* Group of seeds.

It is not often that attempts are made to destroy others by the administration of these vegetable poisons; but a case occurred in France in which a woman attempted to poison her husband by mixing slices of the root of this plant with his soup. His suspicions were

excited by the acrid taste of the soup. The woman was tried for the crime, and M. Toulmouche deposed at the trial, that the plant from which the root had been taken, was the œnanthe crocata—that it was a powerful poison, and might cause death in two or three hours. The prisoner was convicted, and condemned to ten years at the galleys. ("Gaz. Méd.," Jan. 3, 1846, 18; also "Journ. de Chim. Méd.," 1845, 533.)

The œnanthe crocata can be identified only by its botanical characters. The leaves are of a dark green color, with a reddish colored border. They have no unpleasant odor when rubbed. The seeds, of which an illustration is annexed, are peculiar. The plant bears a greater resemblance to celery than most of the other umbelliferæ. Its stem is channelled, round, smooth, and branched, of a yellowish red color, and growing to the height of two or three feet. The root consists of a series of oblong tubercles, with long slender fibres. It is of a yellowish-white color, and not unpleasant to the taste. It is the most active part of the plant. The leaves yield much tannic acid to water, but the decoction appears to contain no alkaloidal base, since the chloriodide of potassium and mercury produces no precipitate in it. The roots and stems of this plant are more frequently eaten than the leaves or seeds.

Fool's Parsley. (Æthusa Cynapium.)

Fool's Parsley, or Lesser Hemlock, is very common in gardens and hedgerows. The leaves so closely resemble those of parsley that they have often been gathered for them by mistake.

Symptoms and Appearances.—In May, 1845, a girl aged five years, in good health, ate the bulbs of the æthusa by mistake for young turnips. She was suddenly seized with pain in the abdomen, followed by sickness, but no vomiting. She complained of feeling very ill. On trying to eat, she could not swallow. She was incapable of answering questions, and her countenance bore a wild expression. The lower jaw became fixed, so as to prevent anything being introduced into the mouth. She then became insensible, and died in *an hour* from the commencement of the symptoms: so far as could be ascertained, there were no convulsions. A second child, aged three years, shortly after eating the same substance, was attacked with pain in the stomach, sickness, vomiting, and profuse perspiration. She soon recovered, with the exception of suffering severe griping pains without purging, but these disappeared on the following day. A third child, of the same age, suffered from similar symptoms. Recovery in the two last cases was probably due to the plant having been eaten on a full stomach, and to the

Fig. 29.

Seeds of Fool's Parsley.
a Natural size.
b Magnified 30 diameters.
c Group of Seeds.

effect of early and copious vomiting. ("Med. Times," Aug. 23, 1845, p. 408.)

This plant is known from garden parsley by the smell of its leaves when rubbed, which is peculiar, disagreeable, and very different from that possessed by the leaves of parsley. The leaves of Fool's parsley are finer, more acute, and of a darker green color. The seeds are also peculiar. They are represented in the annexed illustration. Its flower-stem, which is striated, or slightly grooved, is easily known from all other umbelliferous plants by the beard, or three long pendulous leaves of the involucrum under the flower. The flowers are white, those of the garden parsley of a pale yellow color. The poisonous properties of the plant are believed to be due to an alkaloid, which has not yet been isolated.

Monkshood. (Aconitum Napellus.)

This well-known garden plant is in some parts of the country called *Wolfsbane*, and in Ireland *Blue-rocket*. The roots, seeds, and leaves are highly poisonous, owing to the presence of the alkaloid *aconitina;* the root is especially noxious, and when the leaves have fallen off it appears to possess its greatest virulence. These parts of the plant, when masticated, produce a peculiarly cool numbing sensation, affecting the lips, tongue, and interior of the mouth generally. At first the root appears to be tasteless, as the effects are only manifested after twenty minutes or half an hour. From tasting only a small portion of the dried root, I found that this disagreeable sensation remained on the tongue and lips for four hours. In larger quantity the taste has been described as burning, and it is stated to have been followed by a hot acrid sensation in the throat.

Symptoms and Appearances.—In from a few minutes to an hour after the poison has been taken, the patient complains of numbness and tingling in the mouth and throat, which are parched: there is giddiness, with numbness and tingling in the limbs, a loss of power in the legs, sometimes frothing at the mouth and severe pain in the abdomen, followed by vomiting and purging. In some cases the patient is completely paralyzed but retains his consciousness; in others the giddiness is followed by dimness of sight, delirium, and other cerebral symptoms, but not amounting to the complete coma produced by the cerebral or narcotic poisons. The pupils are dilated, the pulse sinks, the skin is cold and livid, and the breathing is difficult. Convulsions are not commonly observed in man, or they are indicated by general tremors or twitchings of the voluntary muscles. The poison produces convulsions in animals. Poisoning by the *root* of aconite is by no means unfrequent. In the spring or autumn the root is liable to be mistaken for that of horseradish. It has been thus accidentally eaten on several occasions and has caused death. A mistake of this kind led to fatal results in three hours in a case which occurred at Lambeth; and another set of cases occurred at Dingwall, in Scotland, in January 1856. Here three persons were poisoned by reason of their having had sauce made with the root of

aconite served at dinner with roast beef in place of horseradish sauce! They were healthy adults; they all died within three hours and a half. Mistakes of this kind show deplorable ignorance, but there is always the risk of their occurrence when horseradish and aconite are grown near to each other in a garden at that season of the year when the leaves have fallen.

The tincture of the *root* is a powerful poison. In January, 1853, a woman took by mistake *seventy minims* of *Fleming's tincture* of the root mixed with one grain of acetate of morphia. In a few minutes she became very thirsty, complained of a burning sensation and pain in her stomach, to relieve which she swallowed a quantity of cold water. In fifteen minutes there was violent vomiting, which continued for two hours. She lost the power of standing, and was very restless. The pain in the stomach increased, and there were convulsive movements of the muscles. She was conscious until shortly before her death, which took place in about four hours after she had taken the poison. There were no general convulsions: the pain in the stomach was well marked throughout. On *inspection*, the membranes of the brain were congested, but the brain itself was firm and healthy. The lungs were healthy: and the heart was flaccid, the uterus congested. The stomach contained some mucus, and the membrane at the larger curvature was injected (reddened) in patches, but otherwise natural. The mucous membrane of the duodenum was in a high state of inflammation, abraded in patches, softened, and broken down. Some spots were of a very dark color, passing into mortification. In October, 1852, an excise officer lost his life by merely tasting Fleming's tincture of aconite, under the supposition that it was flavored spirit. He was able to walk from the Custom House over London Bridge, but he died in about four hours after taking the poison.

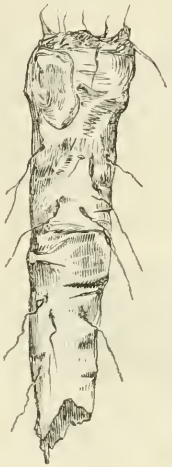
The case of the man *Hunt*, who, in November, 1863, destroyed his wife and children by prussic acid, presents some features of interest in reference to the symptoms and appearances produced by *tincture of aconite*. The quantity of tincture taken by him was not determined; but the man was soon afterwards seized with violent spasmodic retching, face pale, skin cold and clammy, pulse small and hardly perceptible, and the action of the heart feeble. The pupils were much dilated, and the eyes brilliant and sparkling; the breathing was quiet and regular, except during the fits. He complained of pain in his heart. In attempting to walk, he staggered, and had no power to raise his arms. He was perfectly conscious—called for writing materials, and wrote a few lines. He then became suddenly worse, and a quarter of an hour before his death he lost all power and sensation in his limbs, the sharpest pinches producing no impression. The pulse was imperceptible. There were no convulsions, but complete relaxation of the limbs at death, which appeared to arise from syncope three quarters of an hour after he had taken the poison. On *inspection* forty-two hours after death, there was great rigidity of the muscles. The substance of the brain was firm and healthy: the vessels on the surface were filled with blood. The

heart was healthy: the right side was greatly distended with dark fluid blood: the left side contracted and quite empty. The lungs

Fig. 30.

Root of Aconite.

Fig. 31.



Root of Horseradish.

were healthy. In the abdomen the viscera were healthy, with the exception of the stomach and duodenum. There was great capillary congestion at the larger end of the stomach, the mucous membrane having a bright red color. There were marks of irritation, with softening and separation of the mucous lining, the whole of the membrane being in a highly corrugated condition. Traces of aconitina were found in the contents of the stomach. The deceased had provided himself with an ounce of the tincture of aconite, and had swallowed the greater part of this mixed with water.

Analysis.—The botanical characters of the leaves and root, when any portion can be obtained, will enable a medical witness to identify this vegetable poison. The root has been frequently and fatally mistaken for horseradish, but there are these striking differences: 1. Aconite root is very short, conical, and tapers rapidly to a point (Fig. 30). 2. It is externally of an earthy-brown color—internally white and of an earthy smell—the cut surface is rapidly reddened by exposure to air. It has numerous long thin fibres proceeding from it.

3. It has at first a bitter taste, but after a quarter of an hour or twenty minutes it produces a disagreeable sense of tingling and numbness on the lips and tongue. 1. Horseradish root is long, cylindrical or nearly so, and of the same thickness for many inches (Fig. 31). 2. It is externally whitish-yellow, and has a pungent odor when scraped. 3. Its taste is something bitter, but it produces an immediate hot or pungent sensation.

The leaves of aconite or monkshood are of a dark-green color and of a peculiar shape. When masticated they slowly produce on the lips and tongue the persistent sense of tingling and numbness, with the sense of coolness observed in the root. They are less powerful than the roots and seeds. The seeds differ in appearance from those of other poisonous plants (Fig. 32).

Fig. 32.

a Seed of Aconite, natural size.
b The same, magnified 30 diameters.

Aconitina.—The alkaloidal base of this plant, *Aconitina*, is a formidable poison, exceeding all others in its effects. In one case one-fiftieth part of a grain nearly proved fatal to an elderly lady (Pereira, "Mat. Med." vol. 2, pt. 2, p. 695): and it is probable that *one-tenth* part of a grain of pure aconitina would prove fatal to a human being. Some samples of this alkaloid are, however, much less potent than others, and the chemical properties are also different. (See paper by Schroff, "Reil's Journal für Toxikologie," 3d H. 1857, p. 335), and one by Liégeois ("Chem. News," Oct. 24, 1863, p. 201). This contains the account of a simple method for its extraction.

A sample of English aconitina possessed the following properties: It was in whitish granular masses, without any distinctly crystalline structure. 1. When heated it readily fused and burnt in the air with a bright yellow flame. 2. Heated in a close tube, it evolved first an alkaline and then an acid vapor. 3. It was scarcely soluble in water, but was dissolved by weak acids and alcohol; it did not readily crystallize. 4. Nitric acid dissolved it without causing any change of color. 5. Sulphuric acid gave to it a yellowish color, and green oxide of chromium was separated on adding to it a crystal of bichromate of potash. Aconitina cannot be separated from its solutions in a crystalline state by the addition of ammonia. 6. Tannic acid and the chloriodide of potassium and mercury readily precipitated it.

Aconitina is sufficiently soluble in ether to allow of its separation from *organic liquids* by a process similar to that used for strychnia. Dr. Headland recommends as a physiological test the production of an alcoholic extract of the contents of the stomach and its application to animals. One-twentieth of a grain will be sufficient; the 1-300th of a grain will poison a mouse; the 1-100th, a bird; and 1-1000th causes tingling and numbness of the tip of the tongue. The 1-100th of a grain dissolved in spirit and rubbed into the skin causes loss of feeling, lasting for some time. ("Lancet," March 29, 1856,

p. 343.) There is a great difference in the properties of this alkaloid according to the mode in which it is prepared. (Bouchardat, "Ann. de Thérapeutique," 1864, pp. 48 and 54; also, "Annuaire," 1863, p. 41.)

CHAPTER XXI.

ATROPA BELLADONNA OR DEADLY NIGHTSHADE.—POISONING BY ATROPIA.—LOBELIA.—FOXGLOVE.—DIGITALINE.—DATURA STRAMONIUM, OR THORNAPPLE.—DATURIA.

Deadly Nightshade. (Atropa Belladonna.)

Symptoms.—The symptoms which are produced by the leaves, berries, seeds, and root of belladonna are of a uniform character, and, as a summary, they may be thus described: Heat and dryness of the mouth and throat, nausea, vomiting, giddiness, indistinct or double vision, delirium, great excitement, convulsions, followed by stupor and lethargy. The pupils are much dilated, and the eyes are insensible to light. In two cases which occurred to Mr. Tufnell, the pupils were contracted during sleep, although dilated in the waking state. ("Dublin Med. Press," Jan. 5, 1853. "Journal de Chimie Médicale," 1853, p. 695.) Several deaths from the poisonous effects of the *berries*, occurred in London in 1846. The following case was admitted into Guy's Hospital: A boy, æt. 14, ate, soon after breakfast, about thirty of the berries of the belladonna, which he had bought as fruit in the streets. In about three hours, he had the sensation of his face being swollen; his throat became hot and dry, his vision was impaired, objects appeared double, and they seemed to revolve and run backwards. His hands and face were flushed, and his eyelids swollen; there were occasional flashes of light before his eyes. He tried to eat, but could not swallow on account of the state of his throat. In endeavoring to walk home he stumbled and staggered; and he felt giddy whenever he attempted to raise his head. His parents thought him intoxicated; he was incoherent; frequently counted his money, and did not know the silver from the copper coin. His eyes had a fixed, brilliant, and dazzling gaze; he could neither hear nor speak plainly, and there was great thirst; he caught at imaginary objects in the air, and seemed to have lost all knowledge of distance. His fingers were in constant motion; there was headache, but neither vomiting nor purging. He did not reach the hospital until nine hours had elapsed; and the symptoms were much the same as those above described. He attempted to get out of bed with a reeling, drunken motion; his speech was thick and indistinct; the pupils were so strongly dilated that there was merely a ring of iris, and the eyes were quite insensible to light; the eyelids did not close when the hand was passed suddenly before them. He had evi-

dently lost the power of vision, although he stared fixedly at objects as if he saw them; the nerves of common sensation were unaffected. When placed on his legs he could not stand. His pulse was 90, feeble and compressible; his mouth was in constant motion, as if he were eating something. His bladder was full of urine on admission. He continued in this state for two days, being occasionally conscious, when by a free evacuation of the bowels, some small seeds were passed; these were examined and identified as the seeds of belladonna. The boy gradually recovered, and left the hospital on the sixth day after his admission; the progress of recovery was indicated by the state of the pupils, which had then only acquired their natural size and power of contraction. In three other cases which occurred at the same time, the berries having been baked in a pie, pains in the limbs, drowsiness, insensibility, and convulsions, were among the symptoms. In two instances of poisoning by the berries related by Dr. Moll, the symptoms bore a strong resemblance to those of delirium tremens, but among them were heat and dryness of the throat, loss of power of swallowing, incoherent speech, double vision, and strange spectral illusions, with occasional fits of wild and ungovernable laughter. On the following morning both these patients recovered as if from a dream; but they suffered for some time from languor, thirst and dryness of the throat; the pupils also continued dilated, (Casper's "Wochenschrift," 10 Jan. 1846, p. 26.) Two cases, showing the poisonous effects of the berries on children, are quoted in the "Edinburgh Medical and Surgical Journal." (Vol. 29, p. 452.)

Appearances.—The appearances observed in several cases of poisoning with the berries which proved fatal in London during the autumn of 1846, were as follows: the vessels of the brain were congested with liquid blood; the stomach and intestines were pale and flaccid; there were some red spots towards the cardiac end. In other fatal cases, of which the appearances have been reported, the vessels of the brain and its membranes were found distended with thick black blood. Red spots have also been observed around the throat and gullet, and congested patches of a dark purple color on the coats of the stomach. In some instances the mucous membrane has been completely dyed by the juice of the berries. A boy, æt. 5, after having eaten a quantity of the berries of the belladonna, went to bed, was very restless, vomited once, and died in convulsions about fifteen hours after having taken the poison. On inspection, the eyes were half open, with an intense lustre: the pupils dilated; the mouth was spasmodically closed and the sphincter ani relaxed. The cerebral vessels were distended with dark-colored blood: the substance of the brain, cerebellum, and medulla oblongata, presented numerous bloody points. In the throat and gullet there were several patches of redness. In the stomach there was some fluid, with three open berries; the mucous membrane was of a reddish-blue color in various parts. (Case of Dr. Rosenberger, Canstatt's "Jahresb." 1844, v. 295.)

Analysis.—The indigestible nature of the leaves, fruit, and seeds

will commonly lead to their detection in the matters vomited or passed by the bowels, or in the contents of the viscera after death. The seeds of belladonna are very small—they can be distinguished by the microscope from the seeds of other poisonous plants. They are of a somewhat oval shape and of a dark color. Under a low magnifying power they present a honey-combed surface (Fig. 33). In henbane the surface of the seeds presents more irregular depressions, resembling those seen on certain corals or madrepores. The coloring matter of the berry is of a deep purple hue: it is turned green by alkalies, and red by acids. The leaves would be known by their botanical characters, or decoction or infusion of them by the liquid causing dilatation of the pupil.

Fig. 33.

Seeds of Belladonna.
a Natural size.
b Magnified 30 diameters.

Atropia.—Atropia is the name given to the alkaloidal principle of belladonna; it is a powerful poison. Some consider it to be identical with daturia, the poisonous alkaloid of thornapple, but this is not yet satisfactorily established, either chemically or physiologically. Symptoms of poisoning have been produced by the application of a weak solution of atropia to the eyes. One-eighth of a grain injected beneath the skin for the relief of sciatica, caused all the symptoms of poisoning with belladonna. One grain used endermically nearly proved fatal at Guy's Hospital, and in the following case reported by Mr. Leach ("Med. Times and Gaz." July 6, 1865, p. 34)—a man who swallowed, by mistake, a grain of sulphate of atropia in solution, had a narrow escape of his life. In an hour afterwards, the following symptoms were observed: the pupils were enormously dilated so that the irides were scarcely visible; the eyes moved restlessly from side to side. The pulse was very quick, and the patient appeared as if intoxicated. In another hour his hands were cold, the pulse was weak, and there was loss of power in the limbs. He became restless, incoherent, and unconscious of preceding events. There was also delirium. In a later stage there was a morbid sensitiveness to sounds and objects, the tongue was furred and the skin was dry and hot. The pupils continued dilated for a week, and for several days there was a partial paralysis of the bladder. He recovered in a fortnight.

Atropia is a white crystalline substance, not very soluble in water, but easily dissolved by alcohol, ether, and diluted acids. It does not readily crystallize, but it forms crystallizable salts. The crystals melt at 194°, and at 284° they are volatilized, being at the same time in great part decomposed. Ammonia added to a solution of sulphate of atropia does not separate the alkaloid in distinct crystals. In this respect it differs from morphia and strychnia. When atropia is heated on platinum it melts, darkens in color, and burns with a yellowish smoky flame. Sulphuric, hydrochloric, and nitric acids dissolve it without any change of color. Water added to the mixture of sulphuric acid produces no change: but a crystal of bichromate of potash produces a green color from the formation of oxide of

chromium. Tannic acid precipitates the alkaloid from its solutions; but the most effectual precipitant is the chloriodide of potassium and mercury, which throws down a dense white precipitate even in very diluted solutions. Atropia is also precipitated by chloride of gold, but unlike strychnia, it is not precipitated by sulphocyanide of potassium or chromate of potash. It may be detected in, and separated from, organic liquids by the process of Stas. (See page 189.)

There are no absolute or certain chemical tests for this alkaloid when contained in an organic liquid. The only test usually employed is of a physiological nature, namely, the effect produced on the pupil by small quantities of liquid, or extract, containing traces of atropia. The pupil is largely dilated and the eye loses its insensibility to light. Datura, hyoscyamia, and digitaline also produce dilatation of the pupil. Poisonous mushrooms and other noxious organic matters have a similar effect, so that there is nothing conclusive in this result unless there is also strong evidence from *symptoms* that belladonna has been actually taken or administered.

At the Exeter Autumn Assizes for 1865 (*Reg.* v. *Sprague*), a medical man was charged with attempting to poison his wife and other persons with atropia, which it was alleged had been placed in a rabbit pie. The evidence failed to show at the trial that the prisoner or any other person could have mixed poison with the pie, much less such a poison as this, which in the dose of one or two grains, either destroys life or produces serious illness continuing for some time. The symptoms, as described, resembled those caused by noxious food, and differed in many respects from those of poisoning by atropia. The only fact on which this chemical theory seemed to rest was that the pupils of those who ate of the pie and were taken ill afterwards, were dilated and a portion of the extract of the scrapings of the pie dish is said to have caused a dilatation of the pupil of the analyst. (See "Med. Times and Gazette," August 12, 1865, p. 168; also "Chemical News," August 11, 1865, p. 72.) It is stated that the supposed poison was separated from the baked leg of a rabbit by soaking it in dilute hydrochloric acid, but according to those who have examined the properties of atropia this alkaloid melts at 194°, is entirely volatile under 300°, and is then in great part decomposed. ("Chemie der Organischen Alkalien, Schwartzkopf," p. 317.) The whole of the scientific theory rested upon the dilatation of the pupils, and this, although presumptive, is not positive evidence of atropia having been administered.

Indian Tobacco. (Lobelia Inflata.)

The powdered leaves of Indian tobacco contain an acrid principle, *lobelin*, which is capable of producing poisonous effects on the brain and spinal marrow, attended with irritation of the stomach and bowels. When administered in doses of from ten to twenty grains, lobelia operates as an emetic; but in larger quantity it acts deleteriously. In one case a man lost his life by swallowing *one drachm* of the powdered *leaves*, prescribed by a quack. The person was seen

by a medical practitioner soon after he had taken the poison: he was evidently suffering great pain, but he was quite unconscious; the pulse was small, and the pupils were strongly contracted and insensible to light. He had vomited the greater part of the poison. He suffered from spasmodic twitchings of the face, sank into a state of complete insensibility, and died in about thirty-six hours. On inspection, some fluid was found in the stomach, but none of the powder. The mucous membrane was intensely inflamed, and the vessels of the brain were strongly congested. ("Pharm. Times," May 1, 1847, p. 182.) The *seeds* of lobelia are equally poisonous. In the "Medical Times and Gazette," Nov. 26, 1853, p. 568, two cases are reported in which the seeds proved fatal. In one the mucous membrance of the stomach was highly inflamed. Another case is referred to in the same journal, March 12, 1853, p. 270. There have been many inquests and trials for manslaughter in this country as the result of the improper administration of the leaves of the *Lobelia inflata* by ignorant quacks, calling themselves medical botanists and dealers in vegetable medicines. The medical evidence given on these trials has proved that in large doses lobelia is a most noxious drug.

Lobelia is seen in the form of a greenish-colored powder (fragments of leaves.) This powder requires a reddish-brown color from strong nitric acid, and is blackened by concentrated sulphuric acid. Iodine water has no effect upon the infusion. The proto-and persulphate of iron produce with it a dark-green color, the persulphate very rapidly. The leaves and seeds contain a resinoid substance called *Lobelin*, which has the smell and taste of the plant. It acts as a powerful emetic in doses of from one half to one grain. The leaves of lobelia are generally seen in fragments which do not readily admit of identification by the microscope. The *seeds* are very small, of a lengthened oval shape (Fig. 34), reticulated on the surface with projecting hairs or fibres, and of a light brown color. The discovery of them among the fragments of leaves would furnish a sufficient proof of the presence of lobelia.

Fig. 34.

Seeds of Lobelia.
a Natural size.
b Magnified 70 diameters.

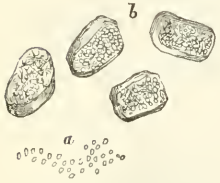
Foxglove. (Digitalis Purpurea.)

Symptoms and Effects.—Cases of poisoning with foxglove are not very common. A boy who swallowed six ounces of a strong decoction of the *leaves* was soon attacked with vomiting, purging, and severe pain in the abdomen. After some time, he became lethargic, and slept for several hours; in the night he was seized with convulsions. The pupils were dilated and insensible, the pulse was slow, small, and irregular; coma followed, and the boy died twenty-two hours after taking the poison. On *inspection*, the membranes of the brain were found much injected, and the mucous lining of the

stomach was partially inflamed. The prisoner was acquitted of the charge because he had only given his fatal advice on the application of the friends of the deceased! ("Ed. Med. and Surg. Journ.," 27, 223.) A young man swallowed a strong *decoction* of foxglove by mistake for purgative medicine. He was soon seized with vomiting, pain in the abdomen, and purging. In the afternoon he fell asleep. At midnight he awoke, was attacked with violent sickness, colic, and convulsions; the pupils were dilated and insensible to light; the pulse was slow and irregular. He died twenty-two hours after taking the poison. (Wilmer, op. cit., *Digitalis.*) A few grains of the powdered leaves have been known to produce giddiness, languor, dimness of sight, and other nervous symptoms. A drachm has, however, been taken without causing death; but in this instance it produced violent vomiting. A common effect of the poison is to produce great depression of the heart's action.

When foxglove has been taken in substance, *i. e.* in the form of seeds or leaves, or any portion of these has been swallowed in a decoction or infusion, fragments may be found in the stomach and bowels. In reference to the infusion, decoction, tincture, or extract, except there be sufficient to allow of the separation of digitaline, there is no chemical process known by which the poison may be recognized. If any fragments of leaves or seeds are found in the contents of the stomach or in food, they may be identified by the aid of the microscope. The annexed illustration (Fig. 35) represents the *seeds* of foxglove: they are of a reddish-brown color, remarkably small, oblong, and somewhat angular in shape. They have peculiar markings. By the aid of the microscope, they may be easily distinguished from the seeds of hyoscyamus, datura, belladonna, and most other poisonous plants.

Fig. 35.



Seeds of Foxglove.
a Natural size.
b Magnified 30 diameters.

Digitaline is the active principle of foxglove. It constitutes one per cent. of the dried leaves. Its physiological properties have been fully investigated by M. Homolle ("Journal de Pharmacie," Janvier 1845–57; also, by Bouchardat, "Ann. de Thérapeutique," 1864, p. 155.) It is an uncrystallizable substance, and has no well defined chemical characters.

Pure digitaline itself operates as a poison on man and animals in very small doses. The 1-16th of a grain, which is considered to be equal to eight grains of the well-prepared powder of the dried leaves, is sufficient to cause symptoms of poisoning. Doses of from 1-11th to 1-32d part of a grain have lowered the pulse and caused nausea, vomiting, griping, purging, and an increased secretion of urine. (Pereira, "Mat. Med.," vol. 2, p. 528.) Doses of from one-quarter to one-half of a grain would probably prove fatal to life. Digitaline has acquired some notority by reason of the trial of *Dr. De la Pommerais*, at Paris, in May, 1864, for the murder of a woman

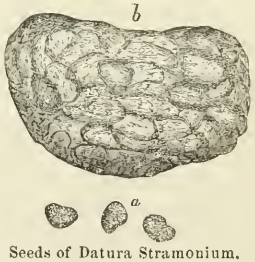
named *Pauw.* (See "Principles of Med. Jur.," p. 364, also "Ann. d'Hygiène," 1864, tom. 2, p. 105.)

Thornapple. (Datura Stramonium.)

Symptoms and Appearances.—The symptoms produced by stramonium whether the leaves or seeds are used, are as follows: soon after the poison has been taken there is giddiness, dimness of sight, a sense of fainting—insensibility—fixed and dilated pupils, flushed countenance, and a slow and full pulse. Sometimes there is great restlessness, with a hot and red skin, and a wild and staring expression in the countenance, the breathing hurried and gasping, incessant talking without distinct articulation, and there are attempts to drive away, or grasp at, imaginary objects. There is picking at the bedclothes, with paroxysms of excessive laughter, and if the person can walk, it is with a staggering gait and he falls to the ground as if intoxicated, or completely exhausted. The seeds of datura were used by the Thugs of India for rendering their victims powerless and insensible.

Appearances.—In a well-marked case of poisoning by stramonium-seeds, in which death took place in less than eight hours, the following appearances were found: great congestion of the vessels of the brain and its membranes, the brain firm and highly injected, choroid plexus turgid, ventricles containing serum, substance of the lungs congested, and the heart flaccid. The stomach contained about four ounces of digested food mixed with eighty-nine seeds of stramonium. There were two patches of extravasation in the mucous coat—one on the larger curvature, and the other near the pylorus. Many seeds and fragments were also found in the intestines. ("Lancet," Sept. 18, 1847, p. 298.) In another case there were marks of diffused inflammation about the cardiac end of the stomach.

Fig. 36.



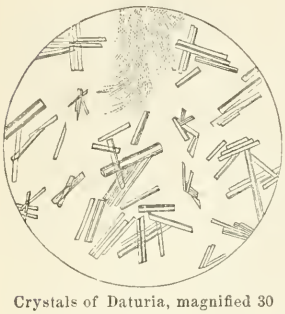
Seeds of Datura Stramonium.
a Natural size.
b Magnified 30 diameters.

Analysis.—The *seeds* of stramonium, from which accidents have most frequently occurred, are flattened, kidney-shaped, but half oval, rough, and of a dark-brown or black color. They are liable to be mistaken for the seeds of capsicum. Of the dry datura stramonium, there are about eight seeds to a grain. They are of an oblong kidney-shape, and of a dark-brown or black color. The illustration (Fig. 36) shows their appearance under a low power of the microscope. The leaves of the common datura stramonium are well characterized by their peculiar shape.

Daturia.—The poisonous properties of thornapple are owing to the presence of an alkaloid, *daturia*, which forms about one per cent. of the dried vegetable. Some have considered this alkaloid to be

identical with atropia, but the physiological properties are different. See Bouchardat, "Ann. de Thérapeutique," 1864, p. 24. Daturia crystallizes in long colorless prisms or needles (Fig. 37); it has a bitter taste, somewhat acrid, and slightly resembling that of tobacco. It is poisonous. The eighth of a grain killed a sparrow in three hours. When placed on the eye or introduced into the cellular membrane of an animal, it is observed, like atropia, to cause dilatation of the pupil. When heated in a tube it is decomposed, and ammonia is evolved as with other alkaloids. It is soluble in water, and the solution has an alkaline reaction. It is precipitated by *tannic* acid and by the chloriodide of potassium and mercury. Nitric and hydrochloric acids dissolve it, without producing any change of color. Sulphuric acid produces, with the crystals, a pale rose-red color which becomes paler when the acid mixture is diluted with water.

Fig. 37.



Crystals of Daturia, magnified 30 diameters.

The bark, seeds, berries and leaves of the *Laburnum*, *Yew*, and *Privet*, have in a few cases given rise to symptoms of poisoning. These poisons affect the brain and the alimentary canal, producing vomiting and purging, followed by insensibility and convulsions.

WOUNDS AND PERSONAL INJURIES.

CHAPTER XXII.

DEFINITION OF A WOUND.—DANGER TO LIFE.—GRIEVOUS BODILY HARM.—EXAMINATION OF WOUNDS.—DESCRIPTION OF WOUNDS.—CHARACTERS OF WOUNDS INFLICTED ON THE LIVING AND DEAD BODY.—ECCHYMOSIS ON THE LIVING AND DEAD.—EFFECTS OF VIOLENCE ON THE DEAD BODY.—ECCHYMOSIS NOT ALWAYS A RESULT OF VIOLENCE.

Definition.—In a medico-legal sense a wound implies a breach of continuity in the structures of the body, whether external or internal, suddenly occasioned by mechanical violence. This definition therefore includes injuries to the skin or mucous membrane of the outlets of the body—dislocations and fractures, whether simple or compound, as well as ruptures of the viscera. In a medical point of view a wound is commonly restricted to those external injuries in which the skin is implicated; but in legal medicine the term has a much wider signification.

Danger to Life.—When a wound has been criminally inflicted on a person by the wilful act of another, one of the first questions which presents itself for consideration is how far the injury is dangerous to life. In order to justify the detention of the accused, a magistrate may require a medical opinion or a written statement from the surgeon in attendance. The meaning of the words "*dangerous to life*," is left entirely to the professional knowledge of a witness. It is not sufficient on these occasions that he should make a naked declaration of the wound being dangerous to life; he must, if called upon, state to the court satisfactory reasons for this opinion; and these reasons are rigorously inquired into by counsel for the defence. As a general principle it would not be proper to consider those wounds dangerous to life, in which the danger is not *imminent*. A wound of a great bloodvessel, of any of the viscera, or a compound fracture with depression of the bones of the head, must in all instances be regarded as bodily injuries dangerous to life; because in such cases the danger is imminent. Unless timely assistance be rendered, these injuries will most probably prove fatal, and, indeed, they often destroy life in spite of the best surgical treatment. When, however, the danger is remote, as in a puncture or laceration of the hand or foot, which may be followed by tetanus, or in a laceration

of the scalp, which may be followed by erysipelas, or in penetrating wounds of the orbit, which may be attended by fatal inflammation of the brain or its membranes, the case is somewhat different. Such injuries as these are not directly dangerous to life—they are only liable to be attended with danger in certain cases, and under certain circumstances; hence the medical opinion must be qualified. The law, on these occasions, appears to contemplate the direct and not the future or possible occurrence of danger; if the last view were adopted, it is clear that the most trivial lacerations and punctures might be pronounced dangerous to life; since tetanus or erysipelas proving fatal, has been an occasional consequence of very slight injuries. A difference of opinion will often exist among medical witnesses, whether a particular wound is or is not dangerous to life. Unanimity can only be expected when the judgment and experience of the witnesses are equal. The rules for forming an opinion in these cases will, perhaps, be best deduced from the results of the observations of good surgical authorities in relation to injuries of different parts of the body. [In case of application for release on bail, the medical atttendant may be called upon to testify as to the amount of danger to life involved in the injury inflicted, and must be governed in his deposition by the principles here laid down. The opinion should be qualified in every case of injury not directly dangerous to life but only incidentally liable to fatal termination. Unless this distinction be clearly expressed, great injustice may be done in withholding a privilege which the law expressly grants in cases of trifling wounds.—H.]

Wounds causing Grievous Bodily Harm.—A wound may not be dangerous to life, but it may have produced "*grievous bodily harm.*" This question is sometimes put, although the usual practice is to leave it to be drawn by the jury as an inference from a professional description of the injury. These words have a vague signification; but it would perhaps be difficult to substitute for them others less open to criticism. They evidently refer to a minor description of offence, and are applied commonly to those injuries which, while they do not actually place life in danger, may be attended with considerable personal inconvenience, or be in some way detrimental to the health of the wounded party. It is always a question for a jury whether the *intent* of the prisoner, in inflicting a wound, was or was not to produce grievous bodily harm. In some cases the nature or the situation of a wound, as well as the kind of weapon used, will at once explain the intent: so far the medical witness may assist the court, by giving a plain description of the injury, as well as of the consequences with which it is usually attended. It may happen either that the wound itself is not of a serious nature, and yet the intention of a prisoner may have been to do grievous bodily harm to the wounded person, or the injury may be really serious, and yet the prisoner may not have intended to do grievous bodily harm.

Let us suppose that the wounded person is found dead, and an examination of the body is required to be made. The most difficult part of the duty of a medical jurist now commences. Among the

numerous questions which here present themselves, the first which demands examination, is whether the wound was inflicted on the body before or after death.

Examination of Wounds.—In examining a wound on a dead body, it is proper to observe its situation, extent, length, breadth, depth, and direction: whether there is about it effused blood, either liquid or coagulated, and whether there is ecchymosis, *i. e.* a livid discoloration of the skin from the effused blood. It should also be ascertained whether the surrounding parts are swollen, whether adhesive matter or pus is effused, whether the edges of the wound are gangrenous, or any foreign substances are present in it. Care must be taken that putrefaction is not mistaken for a gangrenous condition of the wound. The wound may be examined by gently introducing into it a bougie, and carrying on the dissection around this instrument, avoiding as much as possible any interference with the external appearances. The preservation of the external form will allow of a comparison being made at any future time between the edges of a wound and a weapon found on a suspected person. Of all these points *notes* should be taken, either on the spot or immediately afterwards. In the dissection, every muscle, vessel, nerve, or organ involved in the injury should be traced and described. This will enable a witness to answer many collateral questions that may unexpectedly arise during the inquiry. Another point should be especially attended to. A medical practitioner has frequently contented himself with confining his dissection to the injured part, thinking that on the trial of the accused the questions of counsel would be limited to the situation and extent of the wound only, but this is a serious mistake. If the cause of death be at all obscure, on no account should the inspection be abandoned until all the important organs and cavities of the body have been closely examined; since it may be affirmed that a natural cause of death might have existed in that organ or cavity which the medical witness had neglected to examine. It rests with the practitioner to disprove the probability thus urged by counsel, but he is now destitute of facts on which he can base an opinion—legal ingenuity will triumph, the witness will be discomfited, and the prisoner, of whose guilt there may be, morally speaking, but little doubt, will have the benefit of his inattention, and be acquitted by the jury. In the medical reports on the examination of the bodies of wounded persons, care should be taken to avoid the introduction of any remarks in the form of inferences from the facts of the case. The *facts* should be simply recorded, and the inferences or comments reserved for evidence at the inquest or trial. In making an inspection of the wounded body the state of the stomach should not be overlooked. Death may have been apparently caused by violence, and yet really be due to poison of which a portion may be found in the stomach or bowels.

Characters of a Wound inflicted during Life.—If we find about a wound marks of gangrene, the effusion of adhesive or purulent matter, or if the edges are swollen and enlarged, and cicatrization has commenced, it is not only certain that the injury must have been

inflicted before death, but that the person must have lived some time after it was inflicted. Marks of this description will not, however, be commonly found when death has taken place within ten or twelve hours from the infliction of the injury. A wound which proves fatal within this period of time will present throughout, much the same characters. Thus, supposing it to have been *incised*, there will be traces of more or less bleeding, the blood having chiefly an arterial character, and it will be found coagulated where it has fallen on surrounding bodies. The edges of the wound are everted, and the muscular and cellular tissue around is deeply reddened by effused blood. Coagula or clots are found adhering to the wound, provided it has not been interfered with. The principal characters of a wound inflicted during life, are, then, the following: 1. Eversion of the edges owing to vital elasticity of the skin. 2. Abundant hemorrhage or bleeding, often of an arterial character, with general diffusion of blood in the surrounding parts. 3. The presence of coagula. The wound may not have involved any vessel, and there may be no appearance of bleeding, still the edges will be everted, and the muscles and skin retracted. By an observation of this kind made on the body of a new-born child (Case of *Elphick*, March, 1848), Mr. Prince was enabled to state that the child was living when it was inflicted, an opinion afterwards confirmed by the confession of the mother.

Characters of a Wound made after Death.—If the wound on a dead body be not made until twelve or fourteen hours have elapsed from the time of death, it cannot be easily mistaken for one produced during life. Either no blood is effused, or it is of a venous character, *i. e.*, it may have proceeded from some divided vein. The blood is commonly liquid, and does not coagulate as it falls on surrounding bodies, like that poured out of a wound in the living. The edges are soft, yielding, and destitute of elasticity; they are therefore in close approximation. The cellular and muscular tissues around are either not infiltrated with blood, or only to a very partial extent. There are no coagula within the wound. In experimenting upon amputated limbs, I have found these characters possessed by a wound produced two or three hours after death, although they are best seen when the wound is not made until after the body has lost all its animal heat. In wounds on the dead body, divided arteries have no marks of blood about them, while in the living body the fatal bleeding commonly proceeds from these vessels. Hence in a wound on the living, it will be found that the surrounding vessels are empty. The chief characters of a wound after death are, therefore: 1. Absence of copious bleeding. 2. If there is bleeding it is exclusively venous. 3. The edges of the wound are close, not everted. 4. There is no diffusion of blood in the cellular tissue. 5. There is an absence of coagula. But it may happen that a wound has been inflicted soon after the breath has left the body, and while it was yet warm. The distinction between a wound then made and one made during life, is not so well marked as in wounds inflicted at a later period after death.

In any case in which it is doubtful whether a wound was inflicted on a living or dead body, we should be cautious in giving an opinion: since it must be remembered there are no decisive characters by which wounds of the kind referred to can be distinguished; and a medical witness is as likely to be wrong as right in selecting either hypothesis. It is a considerable step in evidence, when we are able to assert that a particular wound, found on a dead body, must have been inflicted either during life or *immediately* after death; for it can scarcely be supposed that in a case calling for criminal investigation, any one but a murderer would think of inflicting upon a body immediately after death a wound which would assuredly have produced fatal effects had the same person received it while living. So soon as such an opinion can be safely expressed by a witness, circumstantial evidence will often make up for that which may be, medically speaking, a matter of uncertainty.

Wounds or Injuries unattended with Hemorrhage.—The copious effusion of blood has been set down as a well-marked character of a severe wound received during life; but this observation applies chiefly to cuts and stabs. Lacerated and contused wounds of a severe kind are not usually accompanied by much bleeding, even when a large bloodvessel is implicated. It is well known that a whole member has been torn from the living body, and that little blood has been lost; but in such cases coagula or clots of blood are commonly found adhering to the separated parts, a character which indicates that the wound was inflicted either during life or soon after death, while the blood was warm and fluid. When a lacerated or contused wound involves a highly vascular part, although no large bloodvessel may be implicated, it is liable to cause death by loss of blood.

Ecchymosis from Violence.—Contusions and contused wounds are commonly accompanied by a discoloration of the surrounding skin, to which the term ecchymosis (ἐκχύω, to pour out) is applied. This consists essentially in the extravasation or effusion of blood generally from small ruptured vessels, into the surrounding cellular membrane beneath the skin. An ecchymosis is commonly superficial, affecting only the layers of the skin, and showing itself externally, either immediately or in the course of a short time, in the form of a deep blue or livid red patch, but the effusion may be so deeply seated as not to present any external discoloration of the skin.

Violence inflicted on a living body may not show itself under the form of ecchymosis until *after death*. A man received from behind several kicks on the lower part of his abdomen, which caused a rupture of the bladder, and death by peritonitis. He died in about thirty-five hours; but there was no ecchymosis in the seat of the blows, *i. e.*, in the pubic and lumbar regions, until after death. Dr. Hinze met with a case of suicidal hanging, in which it was observed that ecchymosis appeared in the course of the cord only after death. (See "HANGING.") It has been remarked by Devergie that ecchymoses are often concealed on the bodies of the drowned, when first removed from water, owing to the sodden state of the skin; they

may become apparent only after the body has been exposed for some days and the water has evaporated.

A medical jurist must guard against the error of supposing that when a blow has been inflicted on a living person, it is necessary that the individual who is maltreated should survive for a long period in order that ecchymosis should be produced. Among numerous instances proving the contrary, the case of the *Duchess of Praslin* (August, 1847) may be mentioned. This lady, who was assassinated by her husband, was attacked while asleep in bed. The number of wounds on her person (thirty) showed that there had been a mortal struggle, which, however, could not have lasted more than *half an hour*. Yet, on inspection, there were the marks of numerous ecchymoses, which had resulted from the violent use of a bruising instrument. ("Ann. d'Hyg." 1847, t. 2, p. 377.)

The changes which take place in the color of an ecchymosed spot are worthy of attention, since they may serve to aid the witness in giving an opinion on the probable time at which a contusion has been inflicted. After a certain period, commonly in eighteen or twenty-four hours, the blue or livid margin of the spot is observed to become lighter; it acquires a violet tint, and before its final disappearance it passes successively through shades of a green, yellow, and lemon color. During this time the spot is much increased in extent, but the central portion of the ecchymosis which received the violence is always darker than the circumference.

Contusions on the Dead.—Dr. Christison found that blows inflicted on a dead body not more than *two hours* after death, gave rise to appearances on the skin similar to those which resulted from blows inflicted on a person recently before death. The livid discoloration thus produced generally arose from an effusion of the thinnest possible layer of the fluid part of the blood on the outer surface of the true skin, but sometimes also from an effusion of blood into a perceptible stratum of the true skin itself. He likewise found that dark fluid blood might even be effused into the cellular tissue in the seat of the discolorations, so as to blacken or redden the membranous partitions of the cells containing the fat; but this last effusion was never extensive. From this, then, it follows that, by trusting to external appearance only, contusions made soon after death may be easily confounded with those which have been produced by violence shortly before death. If a contusion has been caused some time before death, there will be swelling of the part, and probably also certain changes of color in the ecchymosed patch, in either of which cases there will be no difficulty in forming an opinion. Although ecchymosis, or an appearance analogous to it, may be produced on a body after death, the changes in color are then met with under peculiar circumstances, as where the patient is laboring under general dropsy, and the serum effused beneath the skin may lead to the diffusion of the blood. The most satisfactory mark of distinction between the effects of blows on the living and dead body, in the opinion of Dr. Christison, is the following: In a contusion inflicted during life, the ecchymosed portion of cutis (true skin) is generally dark and

much discolored from the infiltration of blood throughout its whole thickness; the skin at the same time is increased in firmness and tenacity. This is not, however, a uniform consequence of a contusion during life; for a blow may cause effusion of blood beneath the skin without affecting the cutis in the manner stated. The state of the skin here described cannot be produced by a contusion on a dead body, although it is still an open question whether it might not be produced if the contusion were inflicted a *few minutes* after death. As it is, the value of this sign is somewhat circumscribed—it is not always produced on the living—it might be possibly produced on the recently dead; so that when it does not exist we must look for other differential marks, and when it does exist we ought to satisfy ourselves that the contusion was not inflicted recently after death.

The practical inference from these observations is, that discolorations of the skin caused by blows inflicted soon after death, may be sometimes mistaken for marks of violence on the living body. An instance has been communicated to me, on respectable authority, in which, for the sake of experiment, blows with a stick were inflicted on the recently dead body of a woman, while still warm. The body was afterwards accidentally seen by non-professional persons, who were not aware of the performance of these experiments; and so strong was the impression from the appearances, that the deceased had been maltreated during life, that a judicial inquiry was actually instituted, when the circumstances were satisfactorily explained. The fact, therefore, that severe blows after death resemble slight blows during life, is, in a practical view, unimportant. It does not aid our diagnosis, nor prevent serious mistakes from occurring.

Is Ecchymosis a necessary Result of Violence?—This medico-legal question has often created great difficulty. It has been repeatedly asserted in courts of law, that no severe blow could have been inflicted on the body of a person found dead, in consequence of the absence of ecchymosis or other indication of violence on the part struck; but this assertion is entirely opposed to well-ascertained facts. However true the statement may be that severe contusions are commonly followed by ecchymosis, it is open to numerous exceptions; and unless these are known to a practitioner, his evidence may mislead the court. The presence of ecchymosis is commonly presumptive evidence of the infliction of violence, but its absence does not negative this presumption.

It was long since remarked by Portal, that the spleen had been found ruptured from blows or falls, without any ecchymosis or abrasion of the skin appearing in the region struck. This has been also observed in respect to ruptures of the stomach, intestines, and urinary bladder, from violence directly applied to the abdomen. Portal supposed that the mechanical impulse was simply transferred through the supple parietes (or skin) of the abdomen to the viscera behind, as in the striking of a bladder filled with water. Whether this be the true explanation or not, it is quite certain that the small vessels of the skin often escape rupture from a sudden blow, so that

their contents are not effused. A case is reported by Henke, in which a laboring man died some hours after fighting with another, and on an inspection of the body the peritoneum was found extensively inflamed, owing to an escape of the contents of the small intestines, which had been ruptured to a considerable extent. There was, however, no ecchymosis or mark on the skin externally, and the medical inspectors were inclined to affirm, contrary in this case to direct evidence, that no blow could have been struck; but others of greater experience were appealed to, who at once admitted that the laceration of the intestines might have been caused by a blow, even although there was no appearance of violence externally. Mr. Watson states that a girl, aged nine, received a smart blow upon the abdomen from a stone. She immediately complained of great pain; collapse ensued, and she died in twenty-one hours. On inspection there was no mark of injury externally, but the ileum (small intestines) was found ruptured, its contents extravasated, and the peritoneum extensively inflamed. ("On Homicide," p. 187.) Dr. Williamson, of Leith, met with a case in which a man received a kick on the abdomen, from a horse: he died in thirty hours from peritonitis. The ileum was found to have been torn completely across in its lower third. There was not the slightest trace of ecchymosis externally, a fact which is the more remarkable, since the blow was here struck by a somewhat angular or pointed body—the hoof of a horse. ("Med. Gaz.," May, 1840. See also Guy's Hosp. Reports, Oct. 1865, p. 285.) Many other cases might be adduced in support of the statement that ecchymosis is not a necessary or constant result of a severe blow; but these sufficiently establish the fact. This medico-legal question frequently arises in cases in which the bladder or liver is ruptured, as, owing to the general absence of marks of violence, it is often alleged in defence that no blow or kick could have been inflicted on this part of the abdomen. It is unnecessary to say that this view is not in accordance with facts.

CHAPTER XXIII.

EVIDENCE OF THE USE OF A WEAPON.—CHARACTERS OF WOUNDS CAUSED BY WEAPONS.—INCISED, PUNCTURED, LACERATED, AND CONTUSED WOUNDS.—STABS AND CUTS.—WHAT ARE WEAPONS? EXAMINATION OF THE DRESS.—IMPUTED OR SELF-INFLICTED WOUNDS.

Evidence of the Use of a Weapon.—It is not necessary to prove that a weapon has been used for the production of a wound, for the words of the new statute are: "Whosoever shall, *by any means whatsoever*, wound or cause any grievous bodily harm to a person," &c.; yet evidence of the use of a weapon in cases of assault may mate-

rially affect the amount of punishment awarded on conviction. When, upon the clearest evidence, it is certain that a weapon has been used, it is not unusual for prisoners to declare that no weapon was employed by them, but that the wound had been occasioned by accidental circumstances. A witness should remember that he is seldom in a position to swear that a particular weapon produced at a trial, must have been used by the prisoner: he is only justified in saying that the wound was caused either by it or by one similar to it. Schwörer relates the following case. A man was stabbed by another in the face, and a knife with the blade entire was brought forward as circumstantial evidence against him—the surgeon having stated that the wound had been caused by *this* knife. The wounded person recovered; but a year afterwards an abscess formed in his face, and the broken point of the real weapon was discharged from it. The wound could not therefore have been produced by the knife which was brought forward as evidence against the prisoner at the trial. ("Lehre von dem Kindermorde.") Although the criminality of an act is not affected by an occurrence of this kind, it is advisable that such mistakes should be avoided by the use of proper caution on the part of a witness. (On this question, see the case of *Renaud*, by Dr. Boys de Loury, "Ann. d'Hyg." 1839, t. 11, p. 170. As to what is a weapon, see Henke, "Zeitschrift der S. A." 1844, vol. 1, p. 67.)

Characters of Wounds produced by Weapons.—Let us now suppose that no weapon is discovered, and that the opinion of a witness is to be founded only on an examination of a wound. It is right for him to know that on all criminal trials, considerable importance is attached by the law to the fact of a wound having been caused by the use of a weapon; since this generally implies malice, and in most cases a greater desire to injure the party assailed than the mere employment of manual force. Some wounds, such as cuts and stabs, at once indicate that they must have been produced by weapons.

1. *Incised Wounds.*—In incised wounds, the sharpness of the instrument may be inferred from the cleanness and regularity with which the edges are cut: in stabs, also, the form and depth of a wound will often indicate the kind of weapon employed. Stabs sometimes have the characters of incised punctures, one or both extremities of the wound being cleanly cut, according to whether the weapon is single or double-edged. Dupuytren has remarked that such stabs, owing to the elasticity of the skin, are apparently smaller than the weapon—a point to be remembered in instituting a comparison between the size of a wound and the instrument. A lateral motion of the weapon may, however, cause a considerable enlargement of the wound. (See case "Ann. d'Hyg." 1847, t. 1, p. 400.) When a stab has traversed the body, the entrance aperture is commonly larger than the aperture of exit; and its edges, contrary to what might be supposed, are sometimes everted, owing to the rapid withdrawal of the instrument. That facts of this kind should be available as evidence, it is necessary that the body should be seen

soon after the infliction of a wound, and before there has been any interference with it.

Punctured Wounds.—It is necessary to notice whether the edges of a punctured wound are lacerated and irregular, or incised; because it may be alleged in defence, that the wound was produced by a fall on some substance capable of causing an injury somewhat resembling it. In a case that occurred to Mr. Watson, a deeply penetrating wound on the genital organs of the deceased, which had evidently caused the woman's death, was ascribed by the prisoners charged with the murder, to her having fallen on some broken glass; but it was proved that the edges of the wound were bounded everywhere by clean incisions, which rendered this defence inconsistent, if not impossible. I have known a similar defence made on two other occasions, where the cases came to trial. In general, wounds made by *glass or earthenware* are characterized by their great irregularity and the unevenness of their edges. Cases of this kind show that as it is not always possible to know when this sort of defence may be raised, a medical witness should never fail to make a *minute examination*, of a wound which is suspected to have been criminally inflicted. These medical difficulties are now for the most part removed by the 24th and 25th Victoria, Chapter 100. This must not, however, lead the witness to suppose that a personal injury is not to be carefully examined with a view to the determination of this question.

2. *Lacerated and Contused Wounds.*—Lacerated wounds do not in general present greater difficulty with regard to their origin than those which are incised or punctured. The means which produced the laceration are commonly well indicated by the appearance of the wound. These injuries are generally the result of accident; they are, however, frequently met with on the bodies of new-born children, in which case they may give rise to a charge of infanticide. If it could be proved that they had arisen from the use of a weapon, this would of course, go far to a conviction on a charge of murder. *Contused* wounds and severe contusions present much greater difficulty to a medical jurist. It is not often in his power to say whether a contused wound has resulted from the use of a weapon, from *a blow of the fist*, or *a fall*, by reason of the deceased having accidentally fallen against some hard surface. The question is frequently put to medical witnesses, on those trials for manslaughter which arise out of the pugilistic combats of half-drunken men. One of the combatants is generally killed, either by a blow on the head, by a fall, or by both kinds of violence combined. The skull may or may not be fractured; and the person may die of concussion, inflammation of the brain, or from effusion of blood. The general defence is that the deceased struck his head against some hard substance in falling on the ground, and a surgeon is asked whether the particular appearances might not be explained on the supposition of a fall. A medical witness is rarely in a position to swear with certainty, that a contused wound of the head must have been produced by a weapon and *not* by a fall. Some circumstances, however, may occasionally enable him to form an opinion on this point. If there are contused

wounds on several parts of the head, with copious effusion of blood beneath the skin, the presumption is that a weapon must have been used. If the marks of violence are on the summit of the head, it is highly probable that they have been caused by a weapon, since this is not commonly a part which can receive injury from a fall. So if sand, gravel, grass or other substances be found in a contused wound, this will render it highly probable that the injury was really caused by a fall.

It matters not, under the new Statute on wounding, whether the wound was produced directly by a weapon employed by an assailant, or indirectly by any act of violence on his part. A man may fracture the skull of another either by striking him with a brick, or by striking him with his fist and thus causing him to fall against a brick. Acquittals formerly took place upon technicalities of this kind. ("Law Times," March 21, 1846, p. 501); but in *Reg.* v. *Dodd* (Shrewsbury Summer Assizes, 1853) Coleridge J. expressed a strong opinion against the distinction thus made. The prisoner, it was alleged, threw a stone at the deceased, who immediately fell on a stone floor. The deceased was able to go about for several days, but he died a week after he had sustained the violence, from inflammation of the brain, as a result of fracture of the skull. The medical witness ascribed the fracture to a blow from a stone. In the defence it was urged that the fracture might just as well have arisen from a fall on a store floor. Coleridge J. held, if the prisoner knocked the deceased down, that it would make no difference whether the deceased died from a fall on a stone floor, or from injury produced by the stone which was thrown at him.

A doubt may arise whether a *weapon* has or has not been used in reference to lacerated or contused wounds. Contused wounds on bony surfaces, as on the head, sometimes present the appearance of incised wounds, the skin being evenly separated. When a wound is recent, a careful examination will generally enable a witness to form a correct opinion, but if some time has elapsed before a wound is examined, great caution will be required in forming a judgment.

A surgeon should be cautious in listening to the statements of others, that a weapon has been used, unless the wound itself bears about it such characters as to leave the fact indisputable. During a scuffle, the person assaulted may be easily deceived as to the way in which an accused party inflicted a wound upon him; and a bad motive may sometimes exist for imputing to an assailant the use of a weapon during a quarrel. In such cases we should, as medical witnesses, rather trust to the appearance of the wound for proof of the use of a weapon, than to any account given by interested parties.

A late learned judge suggested to me that some means of discrimination between the effects of falls and blows affecting the same part of the body, would greatly aid the administration of justice. There is no doubt that it would, but as no two cases coming under this class of injuries are precisely alike either in the part wounded or the amount of force employed, it is scarcely possible to introduce general rules or to make statistics practically available. It is com-

monly supposed that a mere fall is not sufficient to produce the same degree of injury that may be caused by a blunt weapon, applied suddenly to the head by human force; but a severe fracture may arise from a simple accident of this kind, and present nearly all the characters of homicidal violence. The difficulties at criminal trials will, I think, be found to proceed, not so much from want of rules to assign the violence to one condition or the other, as from a want of proper observation when the wounds are first examined. If minute attention were given to an examination of these injuries soon after their occurrence, circumstances would be noticed which would help the medical witness to a conclusion. The defence that they might have been produced by a fall, is not set up until a subsequent period, and the surgeon is then obliged to trust to his memory for the main points of distinction. Such improvised opinions usually fail in impressing a jury.

When it is a question which of two weapons produced certain bruised wounds found on the head, the difficulties of medical evidence are increased. Under these circumstances the presence of blood, hair, cotton, or woollen fibres on one of the weapons may render it probable that this weapon was used. In most instances an accurate observation of the form of a contused wound and an early comparison of it with the alleged weapon or the substance said to have produced it, will enable a witness to come to a correct conclusion on the subject. The situation, depth, and shape of the wound may be such that no accidental fall could reasonably account for its production. In assaults on women, it is not unusual to find that the complainant herself endeavors to exculpate the assailant (her husband) by ascribing the marks of violence, not to blows, but to some accidental fall. In August, 1864, a woman deposed before a magistrate that certain severe injuries which she had sustained had been caused by her falling on a fender. The medical man who examined her found on the top of the head three distinct wounds which were bleeding. Two appeared as if they had been caused by a blunt instrument; the third on the back part of the head was a clean cut wound. He considered that they had been produced by a chopper, and that none of them had been caused by a fall or a series of falls. The prisoner on this evidence was committed for trial.

3. *Stabs and Cuts.*—It has been remarked that the law in some cases attaches great importance to the clear proof of the use of a *weapon*, and a medical man has therefore a certain responsibility thrown upon him when, in the absence of a weapon and the denial of its use, he is called upon to say whether one has or has not been used. In reference to cuts and stabs there can in general be no difficulty, for these injuries carry with them distinct evidence of their mode of production. Formerly stabbing and cutting were treated as distinct from wounding, and very nice legal distinctions were drawn between these terms, which had the effect of procuring acquittals on mere legal technicalities. Under the new consolidated Act, the words "stab" and "cut" are properly omitted, and the word "wound" only has been retained. Medical men would always agree upon a

stab or cut being a wound, but they might reasonably differ upon the question whether in a given case a wound was really a stab or cut. It might be punctured, lacerated, or contused, and not fairly come under the professional description of a cut or a stab. In the meantime the only person who derived benefit from this grammatical confusion was the assailant who had inflicted the undefined injury on another. A medical witness has now only to prove that the personal injury falls strictly within the meaning of the term *wound;* he is not called upon to prove the precise variety of wounding to which the injury should be assigned. At the same time he will always be prepared with a full description of the characters of an injury in case questions on the subject should be put to him.

What are Weapons.—The new statute has removed those legal doubts which formerly arose in reference to the true signification of the term *weapon.* Thus the teeth, the hands or feet uncovered, were formerly held by the judges *not* to be weapons; and injuries produced by them, however severe, were not treated as wounds within the meaning of the statute. Parties were tried on charges of biting off fingers and noses, and although the medical evidence proved that wounds of a severe kind had been inflicted, and that great disfigurement and mischief had been done to individuals, yet the nature of the injury produced was not so much regarded as the actual method by which it was accomplished. The persons charged were acquitted under an indictment for "wounding," since wounds in a legal sense could be produced only by weapons, while the teeth, hands, and feet were not weapons in law!

Examination of the Dress.—This is sometimes a most important part of the duty of a medical man. In a case of severe wounding, of whatever kind, he should always require to see the dress of the wounded person. It may throw a material light upon the *mode* in which a wound has been produced: it may remove an erroneous suspicion of murder, and may sometimes serve to indicate that a wound has been self-inflicted for the concealment of other crimes, or falsely to impute its infliction to other persons. Marks of blood, dirt, grass or other substances on the clothing may also throw a light upon the mode of infliction. So again the use of a weapon, in reference to cuts and stabs, may be inferred from the dress presenting corresponding cuts or perforations. Contused wounds by bludgeons, may, however, be readily produced through the dress without tearing or injuring it. Considerable laceration of the skin and muscles, and even severe fractures, may be caused without necessarily penetrating the dress supposing it to be of an elastic or yielding nature. In self-inflicted or imputed wounds, if of the nature of cuts and stabs, there is often a want of correspondence between the perforations of the dress and the wounds on the person: this is one of the characters by which the correctness of a statement may be tested. A severe wound may be indirectly produced by a bruising weapon, and medical witnesses have been often questioned on this point. Thus, the prosecutor may at the time have worn about his person some article of dress which received the blow, and this may have actually caused

the wound. Cases of this kind must be determined by the circumstances which accompany them. Hence it is obvious that a medical practitioner should always make a minute and careful examination of wounds which are likely to become the subject of criminal charges as well as of the dress or clothing worn by the wounded person at the time of the assault. In performing his duties as a surgeon, he is bound, so far as he consistently can, to notice as a medical jurist the characters of all personal injuries, so as to be able to give an opinion on the mode in which they were produced. A careful examination of the dress has served to remove doubts respecting the mode in which contused wounds have been inflicted on the body of a person found dead, while on the other hand a neglect to examine the dress has led to accidental being mistaken for homicidal violence.

If several wounds have been inflicted through the *dress*, an examination of this may sometimes suffice to show which was first received. A man, in struggling with an assailant, received three stabs with a knife—two on the left elbow, and the third in the back. The latter was at about the level of the eighth rib;—it was vertical to the chest, and had clean edges. The lower margin was obtuse—the upper acute; hence it was evident that the cutting edge of the weapon had been directed upwards. It had traversed the left lung and the heart, and had caused immediate death. It was obvious, on examination, that this mortal wound had been first received, and the stabs at the elbow inflicted subsequently. These two stabs, which were slight, had divided the cloth coat and shirt, and had only grazed the skin, so that no blood had been effused. But the edges of the cuts in the cloth coat and shirt were stained with blood; hence it was evident that they must have been produced by a weapon already rendered bloody by a previous wound. The fact was of some importance in the case, and the correctness of the medical opinion was confirmed by the evidence at the judicial inquiry. (See "Ann. d'Hygiène," 1847, p. 461.)

Imputed Self-Inflicted Wounds.—A man may produce on himself one or more wounds for the purpose of simulating a homicidal assault which he may allege to have been committed upon him. With the motives for the self-infliction of wounds a medical jurist is not concerned—it is of the fact only that he can take cognizance. From the cases that have yet occurred, it would appear that the object has been to extort money, to conceal murder, robbery or some other crime, and to turn away a suspicion of criminality from the wounded person himself, but it is not always easy to trace a motive for the self-infliction of injuries; and when a reasonable motive is not at once forthcoming persons are apt to be misled and to credit the story. Persons who have been convicted of thus imputing violence to others, have frequently borne respectable characters until the occurrence, and this has contributed to give support to their statements. When a person intending to commit suicide fails in the attempt, he has sometimes, under a sense of shame, attributed the infliction of a wound in his throat to another; but facts of this kind may without difficulty be cleared up by circumstantial evidence. Imputed wounds,

if we except the case of an actual attempt at suicide, in which the injury is commonly severe, are generally of a *superficial* character, consisting of cuts or incisions not extending below the true skin; deep stabs are seldom resorted to where the purpose is not suicide but merely to conceal other crimes. Further, these wounds are in *front* of the person, and may be on the right or left side, according to whether the person is right or left-handed. They have also been generally *numerous*, and widely scattered; sometimes they have had a complete parallelism, unlike those which must have been inflicted by an adversary during a mortal conflict with a weapon. The *hands* are seldom wounded, although in the resistance to real homicidal attempts these parts commonly suffer most severely. The injuries are not usually situated over those parts of the body in which wounds are by common repute considered *mortal*, and there is in general an entire want of correspondence between the situation of the wounds on the person, and the cuts or other marks on the *dress*. This is a fact which requires special attention.

In comparing cuts on the *dress* with wounds on the person, there are several circumstances to be attended to. What articles of dress were worn at the time of the assault? In a case of actual stabbing by another, all ought to present marks of perforation, corresponding in direction, form, size, sharpness of the edges of the weapon, &c. In imputed wounds, the marks on several layers of dress may not correspond with each other in the characters above mentioned. It is very difficult for a man simulating such injuries so to arrange his clothes when off his person, as to deceive a careful examiner. There will be some inconsistency or want of adjustment. Apart from the fact that several stabs or cuts cannot exist on the same part of the clothes, without one or more being stained with blood on the outside or inside, an impostor may either do too much or too little, and thus lead to his detection. In a case which excited much public discussion in London many years since, a simple circumstance led to the inference that certain stabs or cuts through a shirt had not been produced while the shirt was on, but while it was off the body. There were two cuts in the shirt near to each other, precisely similar in size, form, and direction; in fact, the knife or dagger producing them must have gone through a fold of the shirt, so accurate was the correspondence. Then, however, it followed that the shirt could not have been upon the body of the wounded person, as he alleged, because a stab through a shirt when worn over the skin must, in order to reach the body, traverse not only a fold (producing two cuts), but another layer in contact with the skin, and thus produce *three cuts*, or in the event of traversing two folds, *five cuts*. In simulating the wounds by cuts on the shirt, the person is supposed to have forgotten this, and have merely stabbed a fold of the shirt while lying on a table, or in some situation convenient for the purpose. This, among other facts, rendered it probable that the slight wounds on the chest were self-inflicted.

It has been contended that no rules can be laid down for the detection of such cases; each must be decided by the facts which

accompany it. The facts which a medical man must endeavor to ascertain are the following: 1. The relative positions of the assailant and the assailed person at the time of the alleged attack. 2. The situation, direction, and depth of the wound or wounds. 3. The situation or direction of marks of blood or wounds on the person or dress of either, or of both, the assailant and assailed, and, 4. The marks of blood, and the quantity effused at the spot where the mortal struggle is alleged to have taken place.

It is worthy of remark, that imputed wounds are generally *cuts* or *stabs*. They are seldom of the contused kind: the impostor cannot, in reference to contusions, so easily calculate upon the amount of mischief which is likely to ensue. Dr. Bergeret, however, has related some cases in which females laboring under hysterical attacks have inflicted upon themselves severe contusions, and have charged innocent persons with attempts to murder. ("Ann. d'Hyg." 1863, vol. 1, p. 463.) In general the inconsistency of the story is so palpable as to betray the imposture at once; but the public are easily deceived, and much prejudice is often unjustly excited against those who have been falsely accused. Slight excoriations or bruises may be magnified into marks of murderous violence; and if a medical man can be found to admit in an unqualified form that a severe blow can be inflicted and yet leave but slight marks on the skin, the charge will be considered proved against the unfortunate accused. The case of *M. Armand*, a merchant of Montpellier, who was tried at the Assizes at Aix, in March, 1864, for an alleged murderous assault upon his servant Maurice Roux, furnishes a good illustration of the readiness with which the most inconsistent stories are accepted by the public when they are supported by pseudo-medical evidence.

Pistol-shot wounds are sometimes voluntarily inflicted for the purpose of imputing murder or extorting charity. A man intending to commit suicide by firearms, and failing in the attempt, may, from shame and a desire to conceal his act, attribute the wound to the hand of some assassin. In examining such imputed wounds they will not be found to involve vital parts, except in cases of attempted suicide, and they will possess all the characters of near-wounds produced by gunpowder, wadding, or a bullet. The skin around will be more or less lacerated and bruised; there will be much ecchymosis, and the hand holding the weapon, as well as the dress and the wounded skin, may be blackened or burnt by the exploded gunpowder. A pistol-shot wound from an assassin may be produced from a distance, while an imputed wound which is inflicted by a person on himself, must always partake of the characters of a near-wound.

CHAPTER XXIV.

WOUNDS INDICATIVE OF HOMICIDE, SUICIDE, OR ACCIDENT.—EVIDENCE FROM THE SITUATION OF A WOUND.—EVIDENCE FROM NATURE AND EXTENT.—EVIDENCE FROM THE DIRECTION OF A WOUND.—WOUNDS INFLICTED BY THE RIGHT OR LEFT HAND.—SEVERAL WOUNDS.—USE OF SEVERAL WEAPONS.

Wounds Indicative of Homicide, Suicide, or Accident.—Supposing that the wound which is found on a dead body is proved to have been caused before death, it may be necessary to inquire whether it was the result of *suicide*, *homicide*, or *accident*. It might at first sight be considered that the determination of a question of this nature was wholly out of the province of a medical jurist. In some instances it may be so, and the settlement of it is then properly left to the legal authorities; but, in a large number of cases, it is so closely dependent for its elucidation on medical facts and opinions, that juries could never arrive at a satisfactory decision without medical evidence. Let us suppose, then, that a medical jurist is consulted in a doubtful case—What are the points to which he should direct his attention? They are, with regard to the wound, 1, its *situation*, 2, its *nature* and *extent*, and, 3, its *direction*.

1. *Evidence from the Situation of a Wound.*—It is a general principle in which most medical jurists agree, that wounds inflicted by a suicide, are usually confined to the fore or lateral parts of the body. The throat and chest are commonly selected, when cutting instruments are employed; while the chest, especially in the region of the heart, the mouth, the orbit, and the temples, are the spots generally chosen for the perpetration of suicide by fire-arms. But it is obvious, that any of these parts may be also selected by a murderer, with the especial design of simulating a suicidal attempt; therefore the mere situation of a wound does not suffice to establish the fact of suicide. Some have regarded it as fully established in legal medicine, that when wounds exist at the back part of the body, it is a positive proof that they have not been self-inflicted. This situation is certainly unusual in cases of suicide; but, as Orfila observes, it is not the situation, so much as the direction of a wound, which here furnishes evidence against the presumption of suicide. A wound, traversing the body from behind to before in a direct line, is not likely to have resulted from a suicidal attempt: at least it must be obvious that it would require more preparation and contrivance on the part of a self-murderer, so to arrange matters that such a wound should be produced, than we can believe him to possess at the moment of attempting his life. Besides, his object is to destroy himself as quickly

and as surely as circumstances will permit; he is, therefore, not likely to adopt complicated and uncertain means for carrying this design into execution. Nevertheless, we must not always expect to find suicidal wounds in what an anatomist would pronounce to be, the most appropriate situation to produce instant destruction. An incised wound in a concealed or not easily accessible part is presumptive of murder: because this kind of injury could have resulted only from a deliberate use of the weapon. Suicidal wounds, are, however, sometimes found in unusual situations. In reference to this subject, it has been remarked, that there is no wound which a suicide is capable of inflicting upon himself, which may not be produced by a murderer; but there are many wounds inflicted by a murderer, which, from their situation and other circumstances, a suicide would be incapable of producing on his own person. We cannot always obtain certainty in a question of this kind—the facts will often allow us to speak only with different degrees of probability.

The situation of a wound sometimes serves to show whether it is of an *accidental* nature or not—a point often insisted on in the defence. Accidental wounds are generally found on those parts of the body which are *exposed*. Some wounds, however, forbid the supposition of accident even when exposed; as deeply incised wounds of the throat, and gunshot wounds of the mouth and temples. For the report of a case in which an accidental wound on the head, by an axe, closely simulated a homicidal wound, see Casper's "Wochenschrift," May 24, 1845.

2. *Evidence from the Nature and Extent of a Wound.*—Contused wounds are rarely seen in cases of suicide, because in producing them there is not that certainty of speedily destroying life to which a self-murderer commonly looks. There are, of course, exceptions to this remark; as where, for instance, a man precipitates himself from a considerable height, and is wounded by the fall. Circumstantial evidence will, however, rarely fail to clear up a case of this description. Greater difficulty may exist when life is destroyed by a contused wound, voluntarily inflicted. When persons laboring under insanity commit suicide, they often inflict upon themselves wounds of an extraordinary kind—such as would, at first view, lead to a suspicion that they had been produced by the hand of a murderer; and, therefore, the rules which are here laid down to distinguish homicidal from suicidal wound, must be guardedly applied to cases of this kind.

The *extent* of a wound, by which we are to understand the number and importance of the parts injured, must in these cases be always taken into consideration. It has been somewhat hastily laid down as a rule, that an extensive wound of the throat, involving all the vessels and soft parts of the neck to the spine, could not be inflicted by a suicide. Although in general, suicidal wounds of this part of the body do not reach far back, or involve the vessels of more than one side, yet we find occasionally that all the soft parts are thus completely divided. There are cases in which, perhaps, with a firm hand, there is a most determined purpose of self-destruction. In a

case of suicide, observed by Marc, the weapon had divided all the muscles of the neck, the windpipe, and gullet—had opened the jugular veins and both carotid arteries—and had even grazed the anterior ligaments of the spine. A wound so extensive as this, is rarely seen in a case of suicide, but there is no ground for the assertion, that such extensive wounds in the throat are incompatible with self-destruction.

Incised wounds in the throat are generally set down as presumptive of suicide, but murderers sometimes wound this part for the more effectual concealment of crime. Circumstances connected with the form and direction of a wound, may in such cases lead to detection, for, unless the person attacked be asleep or intoxicated, resistance is offered—evidence of which may be obtained by the presence of great irregularity in the wound, or the marks of other wounds on the hands and person of the deceased. The peculiar form of a wound on the throat has sometimes led to a justifiable suspicion of homicide. In one instance, a man was found dead with his throat cut in the manner in which butchers are accustomed to kill sheep. This led the medical man to believe that the wound had been inflicted by a butcher. The police, guided by this observation, arrested a butcher, who was subsequently tried and convicted of this act of murder. In some instances, however, it is extremely difficult to say whether the wound is homicidal or suicidal—the medical facts being equally explicable on either hypothesis. (See case by Marc, "Ann. d'Hyg." 1830, t. 2, p. 408; another by Devergie, ib. 414; and a third by M. Ollivier, "Ann. d'Hyg." 1836, t. 1, p. 394.) *Regularity* in a wound of the throat has been considered to be presumptive of suicide. This was the publicly-expressed opinion of Sir Everard Home in the well-known case of *Sellis*. The deceased was found lying on a bed, with his throat extensively cut, and the edges of the incision were regular and even. This condition of the wound, it was inferred, repudiated the idea of homicide, but as a general principle, it appears to me to be a fallacious criterion. A murderer, by surprising his victim from behind—by having others at hand to assist him, or by directing his attack against one who is asleep or intoxicated, or who from age or infirmary is incapable of offering resistance, may easily produce a regular and clean incision on the throat.

3. *Evidence from the Direction of a Wound.*—The direction of a wound has been considered by some to afford presumptive evidence sufficiently strong to guide a medical jurist in this inquiry. It has been remarked that in most suicidal wounds which affect the throat, the direction of the cut is commonly from left to right, either transversely or passing obliquely from above downwards; in suicidal stabs and punctured wounds, the direction is commonly from right to left and from above downwards. In left-handed persons, the direction would, of course, be precisely the reverse. Suicidal wounds are, however, subject to such variation in extent and direction, that it is scarcely possible to generalize with respect to them. Nevertheless, an attention to these points may sometimes be of real assistance to the inquirer, especially when the body has not been moved from its

position. It is recommended that the instrument with which the wound has beeen inflicted should be placed in either hand of the deceased, and the extremity moved towards the wounded part, so that it may be clearly seen whether the direction of the wound could or could not correspond to it in any position. It might happen that neither arm would reach the wounded part, so as to inflict a wound of the particular direction observed; this may be the case in wounds situated on the back. It is obvious that if a murderer makes an incised wound in the front of the throat from behind, the direction will be the same as that commonly observed in cases of suicide. (See on this point the case of *Reg.* v. *Dalmas*, Cent. Crim. Court, May, 1844.) Again, if the person attacked is powerless, the wound may be deliberately made, so as to simulate a suicidal act; indeed murderers seldom attack the throat, but with the design of simulating an act of suicide. A homicidal stab may also take the same direction as one which is suicidal, but this would be confined to those cases in which the assailant was placed behind or aside. If in front of the person whom he attacks, the direction would probably be from left to right; but in suicide, when the right hand is commonly used, it is the reverse. Oblique wounds, passing from above downwards, are common to homicide and suicide, but those which take an oblique course from below upwards are generally indicative of homicide, for it is extremely rare, that a person bent on suicide, unless a lunatic, thus uses a weapon. Homicidal incisions, especially in the throat, are often prolonged below and behind the skin forming the angles of a wound, deeply into the soft parts. Those which are suicidal rarely possess this character; they terminate gradually in a sharp angle, and the skin itself is the furthest point wounded; the weapon is not carried either behind, below, or beneath it. Exceptions to these characters may exist; but in a dark and intricate subject of this nature, we have only these limited rules to guide us. The instrument with which a wound is supposed to have been inflicted, should be adapted to the edges of the incision; its sharpness compared with the cleanness and evenness of the cut, and its length with the depth of the incision or stab. It is no uncommon occurrence for a murderer to substitute some instrument belonging to the deceased or another person, for that which he has actually employed; and this by its size, shape, bluntness, or other peculiarities, may not account for the appearances presented by the wound.

It is not often that any difficulty is experienced in distinguishing a *suicidal* from an *accidental* wound. When a wound has really been suicidally inflicted, there are generally to be found about it clear indications of design; and the whole of the circumstances are seldom reconcilable with the supposition of accident. But if the position of the deceased with respect to surrounding objects has been disturbed, if the weapon has been removed, and the body transported to a distance, then it will not always be easy to distinguish a wound accidentally received, from one inflicted by a suicide or a murderer. The evidence of those who find the body can alone clear up the case; and the medical witness may be required to state how far this evidence

is consistent with the situation, extent, and direction of the wound by which the deceased has fallen. It is unnecessary to dwell further on this subject, since the observations already made will suggest to a practitioner the course which he should pursue. Circumstantial evidence is commonly sufficient to show whether a wound has been accidentally received or not; but as an accidental wound may sometimes resemble one of homicidal or suicidal origin, so it follows that it is not always possible for a medical jurist to decide the question peremptorily from a mere inspection of the wound.

It would not be difficult to produce instances in which murderers have alleged, in defence, that the wounds observed on the bodies of their victims were of accidental origin, and the allegations have been clearly refuted by medical evidence. A witness must be prepared, therefore, in all cases in which death has taken place in secrecy, and the nature of the wound is such as to render its origin doubtful, to be closely examined by counsel for a prisoner charged with felonious homicide, on a question whether the wound might not have been accidental. The law requires that it should be rendered evident to a jury, before such a charge can be sustained, that the fatal wound could *not* have had an accidental or suicidal origin.

Wounds inflicted by the Right or Left Hand.—Some remarks have been made in reference to the direction of a cut or a stab varying according to whether the right or the left hand has been used by a suicide. It is necessary for a medical jurist to be aware, that there are many persons who are *ambidextrous*, *i. e.*, who have equal facility in the use of the right and the left hand. This may not be generally known to the friends of the deceased: and such persons are often pronounced, even by those who have associated with them, to have been right-handed. A want of attention to this point is said to have been one of the circumstances which led to a suspicion of murder in the case of *Sellis*. (Wills' "Circ. Evidence," p. 97.) The man was found dead on his bed with his throat cut—the razor was discovered on the left side of the bed; whereas it was generally supposed and asserted that he was right-handed. The truth was, he was ambidextrous—equally expert in the use of the razor with his left and right hand; and thus the apparently suspicious circumstance of the razor being found on his left side, was at once explained away. The importance of making due allowance for the characters presented by wounds in the throat is also illustrated by a case which occurred in London in November, 1865. A publican and his wife had been frequently in the habit of quarrelling. One night the wife gave an alarm, and the man was found dead on the bed with his throat severely cut. On examination, the fatal wound had all the characters of a left-handed cut, while the deceased was generally believed to be right-handed; and there was bloody water in a wash-hand basin in the room. The wife, who had marks of bruises upon her, said that she left her husband in the bedroom for a short time, and on her return found him dead. The suspicious facts were explained at the inquest by a daughter of the deceased by a former marriage. She stated that her father had been brought up as a wood-carver, a

trade which requires a man to use both hands equally well—that he had frequently threatened to destroy himself, and that the blood in the wash-hand basin was owing to her having washed her hands after she had touched her father's head. This satisfactorily explained the medical circumstances which appeared at first to point to an act of homicide.

The Presence of Several Wounds.—In suicides, commonly, one wound only is seen, namely, that which has destroyed life, and the presence of several wounds on the body, or the marks of several attempts around the principal wound, have been considered to furnish presumptive evidence of murder. But any inferences of this kind must be cautiously drawn, since not only may a murderer destroy his victim by one wound, but a suicide may inflict many, or leave the marks of several attempts before he succeeds in his purpose.

The Use of Several Weapons.—In general, suicides, when foiled in a first attempt, continue to use the same weapon; but sometimes, after having made a severe wound in the throat, they will shoot themselves, or adopt some other method of self-destruction. These cases can only appear complicated to those who are unacquainted with the facts relative to self-murder. Neither the presence of several wounds by the same kind of weapon, nor of different wounds by different weapons, can be considered of themselves to furnish any proof of the act having been homicidal. In one instance which is reported, a lunatic, in committing suicide, inflicted *thirty* wounds upon his head. In a case of murder, when many wounds are found on a dead body, it may happen that the situation or direction of some will be incompatible with the idea of a suicidal origin. Thus a stab or cut may be close to a contusion or contused wound, and although a fall or other accident might account for the latter, the former would indicate violence separately inflicted.

Two or more Mortal Wounds.—When we find several wounds on the body of a suicide, it generally happens that one only bears about it a *mortal* character, namely, that which has caused death. On this account it has been asserted by some medical jurists, that when two mortal wounds are found upon a body, and particularly if one of them is of a stunning or stupefying tendency (*i. e.* affecting the head), they must be considered incompatible with suicide. An inference of this kind can be applied to those cases only in which the two wounds, existing on different parts of the body, were likely to prove immediately fatal. It must, however, be borne in mind, that all suicides do not *immediately* perish from wounds which are commonly termed mortal: on the contrary, they have often the power to perform acts of volition and locomotion, which might by some be deemed wholly incompatible with their condition. It is difficult to say whether one wound was likely to destroy life so rapidly as to render it impossible for the person to have inflicted another upon himself; but when there are several distinct incisions on the throat, each involving important bloodvessels, there is good reason to infer that they have resulted from an act of murder.

CHAPTER XXV.

EVIDENCE FROM CIRCUMSTANCES.—THE POSITION OF THE BODY.—OF THE WEAPON.—EVIDENCE FROM BLOOD, HAIR, AND OTHER SUBSTANCES ON WEAPONS.—MARKS OF BLOOD ON CLOTHING AND FURNITURE, ON THE DECEASED, AND ON THE ASSAILANT.

Evidence from Circumstances.—In pursuing the examination of the question respecting the homicidal or suicidal origin of wounds, the attention of the reader may be called to the force of evidence which is sometimes derived from the circumstances under which the body of a person, dead from wounds, is discovered. It may be said that this is a subject wholly foreign to the duties of a medical jurist, but I cannot agree to this statement. There are few in the profession who, when summoned to aid justice by their science, in the detection of crime, do not seek for circumstances by which to support the medical evidence required of them. A practitioner would certainly be wrong to base his professional opinion on these circumstances, but it is scarcely possible for him to avoid drawing an inference from them as they fall under his observation. Care must be taken that this inference is not overstrained. The medical evidence may be of itself weak, and insufficient to support the charge against the accused: in such a case, if any suspicious circumstances have come to his knowledge he may be often unconsciously induced to attach greater importance to the medical facts than he is justified in doing. In short, he may, through a feeling of prejudice, which it is not always easy to avoid, give an undue force to the medical evidence. But if a proper degree of caution is used in drawing inferences, and the circumstances are not allowed to create a prejudice in his mind against the accused, a practitioner is bound to observe and record them; for, being commonly the first person called to the deceased, many facts capable of throwing an important light on the cause of death, would remain unnoticed or unknown, but for his attention to them. The position of a dead body, the suddenness of death, the discovery of a deadly poison, the distance at which a knife or pistol is found—the position of the instrument—whether situated to the right or left of the deceased—the marks of blood or wounds about the person, or of blood on the clothes or furniture of the apartment, are facts which must assist materially in developing the real nature of a case, and in giving force to the medical opinion. Many of these circumstances can fall under the notice of him only who is first called to the deceased; and, indeed, if observed by another, no advantage could be taken of them, except from the interpretation of a medical man.

At the same time, a person may have died suddenly, and a weapon or poison be found near the body, and yet the death may have taken place from natural causes. Due allowance must be made for coincidences of this kind. The purchase and possession of a deadly poison shortly before a sudden death may create suspicion, but a careful analysis may show that there is no poison in the body, and further that the post-mortem appearances are consistent with natural disease—and unless treated as exceptional in character they are not consistent with death from poison. Mr. Stedman, of Guildford, met with a case in which a woman was found dead under very suspicious circumstances. Within half an hour of her death she had sent a boy to a shop to purchase a packet of Battle's vermin-killer (strychnia). He gave it to her and left the house. When he returned at the time mentioned he found her leaning on the table, speechless and motionless. She was then dead. There was no rigidity and no evidence of convulsions. Some fluid was found in the stomach, but in this there was no strychnia, and none of the blue coloring matter which had been sold with the powder. No trace of the powder could be found on the premises, and no cup, glass, or vessel in which the poison might have been mixed, could be seen. ("Med. Times and Gaz.," Jan. 14, 1865, p. 34.) The absence of any characteristic symptoms, and the non-detection of the poison and its coloring ingredient under the circumstances negatived the suspicion of poisoning. The purchase, possession, and the non-discovery of the purchased packet after the death of the woman, were circumstances which created suspicion, but nothing more. The medical facts proved that the suspicion was unfounded. The state of the lungs and heart accounted for sudden death.

Among the questions which present themselves on these occasions are the following: Is this the position of a wounded body *that* which a suicide could have assumed? Is the distance of a weapon from the body such as to render it improbable that it could have been placed there by the deceased? In answering either of these questions, it is necessary to take into consideration the extent of the wound, and the time at which it probably proved fatal. Again, it may be inquired—Has the deceased bled in more places than one? Are the streams of blood all connected? Are there any marks of blood on his person or clothes, which he could not well have produced himself? Are there any projecting nails or other articles which might account for wounds on the body as the result of accident? These are questions, the answers to which may materially affect the case: hence, a practitioner, in noticing and recording the circumstances involved in them, ought to exercise due caution.

The rules for investigating a case of alleged death from violence have been elsewhere described (p. 22). Among the additional circumstances to which a medical witness should especially direct his attention on these occasions, are the following:—

1. *The Position of the Body.*—The body may be found in a position which the deceased could not have assumed on the supposition of the wound or injury having been accidental or suicidal. The posi-

tion of a dead wounded body is often only compatible with homicidal interference, either at the time of death or immediately afterwards. In order to determine the probable time of death, we should always notice whether there is any warmth about the body—whether it is rigid, or in a state of decomposition, and to what degree this may have advanced.

2. *The Position of the Weapon.*—If a person has died from an accidental or self-inflicted wound, likely to cause death either immediately or within a few minutes, the weapon is commonly found either near to the body or within a short distance of it. If found near, it is proper to notice on which side of the body it is lying; if at a short distance, we must consider whether it might have fallen to the spot, or have been thrown or placed there by the deceased. If there has been any interference with the body, evidence from the relative position of it and the weapon will be inadmissible. In a case which was referred to me some years since, a woman had evidently died from a severe wound in the throat, which was homicidally inflicted; the weapon, a razor, was found under the left shoulder, a most unusual situation, but which, it appears, it had taken owing to the body having been carelessly turned over before it was seen by the surgeon who was first called.

It is compatible with suicide that a weapon may be found at some distance, or in a concealed situation; but it is much more frequently either grasped in the hand, or lying by the side of the deceased. In one instance, it is stated the deceased was discovered in bed with his throat cut, and the razor lying *closed* or shut by his side. In another case, the bloody razor closed, was found in the deceased's pocket. There is, however, one circumstance in relation to the weapon, which is strongly confirmatory of *suicide.* If the instrument is firmly grasped in the hand of the deceased, no better circumstantial evidence of suicide can be offered. It is so common to find knives, razors, and pistols grasped in the hands of suicides, that it is quite unnecessary to produce cases illustrative of this statement. The grasping of a weapon appears to be owing to muscular spasm persisting after death, and manifesting itself under the form of what has been called cadaveric spasm—a condition quite distinct from rigidity, although often running into it. It does not seem possible that any murderer could imitate this state, since the relaxed hand of a dead person cannot be made to grasp or retain a weapon, like the hand which has firmly held it by powerful muscular contraction at the last moment of life. In reference to the weapon being found at a distance from the body, all the circumstances of the case should be taken into consideration before any opinion is expressed. If the weapon cannot be discovered, or it is found concealed in a distant place, this is strongly presumptive of homicide, provided the wound is of such a nature as to prove speedily fatal. If found near the body it will be proper to notice whether the weapon is sharp or blunt, straight or bent, also whether the edge is or is not notched. These circumstances may throw a light on the question of suicide or murder.

3. *Blood on Weapons.*—The weapon with which a wound has been

inflicted is not necessarily covered with blood. The popular view is that if much blood is found about a dead body, the weapon ought always to be more or less bloody. In reference to heavy blunt instruments applied with force to the head, severe contusions and fractures may be produced without immediate effusion of blood. Unless the bludgeon is used in a subsequent struggle or handled by a bloody hand, no blood whatever may be found on the end which produced the injuries. In reference to stabs, the knife is frequently without any stains of blood upon it, or there is only a slight film, which, on drying, gives to the surface a yellowish-brown color. The explanation of these facts appears to be that in a rapid blow or plunge the vessels are compressed, so that a bleeding takes place only after the sudden withdrawal, when the pressure is removed. Even if blood should be effused, the weapon, in being withdrawn, is sometimes cleanly wiped against the edges of the wound, owing to the elasticity of the skin. Thus the first stab through the dress may not present any appearance of blood on the outside, but in a second stab, with the same weapon, the outside of the dress should present a bloody mark, unless the weapon had previously been wiped. The blood may have been removed by washing, from the blade of a knife or dagger; hence the handle and inner portions, the notch for opening the blade and the indentations of any letters stamped upon it, should be closely examined.

The blood on a weapon may be in a partly coagulated state, and not diffused as a mere film. This would render it probable that it had issued from the body of a living person or animal, or from a body recently dead. But the blood of a *dead* animal dried in small spots on the blade of a knife may sometimes present a similar appearance, and thus lead to a mistake in evidence.

4. *Hair and other Substances on Weapons.*—In some instances no blood may exist on a weapon, but a few hairs or fibres may be found adhering to it if the weapon is of a bruising or cutting kind. The main questions may be, in such a case, whether the hair is that of a human being or of an animal, and whether the fibres correspond in their nature, form, and color to articles of dress on the deceased or the accused. [See cases cited in former edition, p. 214, where a microscopic examination of the hair adhering to the alleged instrument of death showed that it was not human hair, and thus led to the acquittal of the accused. And to case cited p. 383, *Queen* v. *Mussett*, where the finding of a single hair near blood in a cellar, the presence of which the accused accounted for by saying she had there killed a rabbit, led to the conviction of the prisoner, by a microscopic examination proving that it was a human hair.—P.] Before any coagulated blood is removed from a weapon it should be examined carefully by the microscope. Hairs or fibres of linen, woollen, silk, or cotton, may be found imbedded in the solidified blood, either on the edge or on the blade; and evidence of this kind may occasionally be of great importance. Foreign substances are sometimes found in contused and lacerated wounds which may throw a light on the mode in which they were inflicted. In gunshot wounds it is not unusual to find

portions of paper or other substances used as wadding for the gun or pistol. The preservation of articles of this description, or of portions of the projectiles found under these circumstances, has proved a means of fixing the crime upon the guilty person. When a gun or pistol is discharged near to the body, a portion of the wadding is generally carried into the large irregular wound produced. In a case of stabbing a portion of the weapon may be found in the wound.

5. *Marks of Blood on Clothing or Furniture.*—It is proper to notice all marks of blood on the clothes of the deceased or in the apartment, and to observe where the greatest quantity of blood has been effused: this is generally found on the spot where the deceased has died. The deceased may have bled in more places than one; if so, it is proper to notice whether there is any communication in blood between these different places. Blood on distant clothes or furniture may show whether the deceased has moved about, and whether he has struggled much after receiving the fatal wound. Acts of locomotion by a wounded person who has died from loss of blood, or by a criminal whose hands and feet may be bloody, are generally indicated by tracks or marks of blood. The observation of these marks, if made at the time that a dead body is found, is of great importance. They may be so situated as to show that the body of the deceased has been moved or been interfered with after death, and thus throw a light upon the question whether the act has been one of homicide or suicide. In reference to clothing, it is advisable, if it be possible, to have some clear proof that the clothes sent for examination were actually worn by the accused or belonged to the deceased. Serious mistakes are sometimes made, and medical opinions should therefore be expressed with caution. It should be noticed on these occasions whether the blood is deposited in large patches on clothing, or whether it is sprinkled, and also whether it is in large or small quantity. The sprinkling may have proceeded from a wounded artery, or from a splashing of blood as a result of continued violence. We should likewise observe whether, if the wound is in the throat or chest, blood has flowed down in front of the clothes or person, or whether it has flowed so as to collect in the armpits, or on each side of the neck; for these appearances will sometimes show that the wound was inflicted when the person was standing, sitting, or lying down. If the throat is cut while a person is lying down, it is obvious that the blood will be found chiefly on either side of the neck, and not extending down the front of the body. Few suicides cut the throat while in a recumbent posture, and the course which the blood has taken may, therefore, be sometimes rendered subservient to the distinction of a homicidal from a suicidal wound. The position in which the body was when a wound was inflicted, is a frequent question on inquests and criminal trials.

When spots of blood are found upon articles of dress or furniture, their *form* and *direction* may occasionally serve to furnish an indication of the position of the wounded person with respect to them. Thus, if the form of a spot is oval and elongated, the presumption

is that the person was placed obliquely with respect to the stained furniture during the hemorrhage. ("Ann. d'Hyg." 1840, p. 397.) The force with which the blood has been thrown out, will be in some measure indicated by the degree of obliquity and length of the spot. This is in general wide and rounded at the upper part, but narrow and pointed below.

6. *Marks of Blood or Violence on the Dead Body.*—In examining a dead body, attention should be paid to the state of the *mouth* and *throat.* Assailants who make their attack during sleep, sometimes endeavor to close the mouth, or to compress the throat, so as to prevent an alarm being given. In one instance there were the marks of finger-nails around the mouth; in another, ecchymosed impressions, as if produced by a hand, were found upon the throat of the deceased. The *hands* of a dead person should always be examined; many recent cuts, excoriations, or incisions found upon them, especially if on the back of the fingers or thumbs, will indicate that there has been a mortal struggle with the assailant. In the inspection, the examination of the *stomach* should not be omitted. The presence or absence of food, mucus, or blood, may furnish evidence of considerable importance in the elucidation of the case. All marks or stains of blood or dirt on a dead body require special observation. The impression of a hand, or of some of the fingers, may be found on the skin in a situation where it would have been improbable or impossible for the deceased to have produced it, even supposing that one or both of his hands were covered with blood. In one case of murder there was found the bloody impression of a left hand upon the back of the *left hand* of the deceased, in such a position that it was quite impossible the deceased himself could have made the mark! In all cases it should be noticed whether the *inside* or *outside* of the hand, or whether one or both hands are stained with blood, and the size and position of the stains should be described. Marks of blood on the dress of a wounded person or a dead body may often furnish important circumstantial evidence. If there are several stabs or cuts on the body involving the dress, it should be observed whether the edges of one or more of them are stained with blood, as if from the wiping of a weapon, and whether the stain is on the outside or inside of the article of dress. In simulated personal injuries, the stain of blood may be, through inadvertence, applied to the outside of the dress—a fact which might, in some instances, lead to the detection of the imposture. (See case by Dr. Bayard, "Ann. d'Hyg." 1847, vol. 2, p. 219.)

7. *Marks of Blood on the Assailant.*—It is a very common idea that no person can commit a murder in which blood is effused, without having his person and clothes more or less covered with blood. Nothing can be more erroneous. On several occasions I have been required to examine articles of clothing which had been worn by persons subsequently convicted of murder by wounding, and either no blood has been found on any part of the dress, or only small spots wholly out of proportion to the quantity of blood which must have flowed from the deceased. (*Reg.* v. *Harrington*, Chelmsford Assizes,

1852. *Reg.* v. *Flack*, Ipswich Assizes, 1853. *Reg.* v. *Cass*, Carlisle Assizes, 1860. *Reg.* v. *Rowlands*, Beaumaris Assizes, 1861. *Reg.* v. *Edmonds*, Swansea Assizes, 1862.) In the case of *Gardner* (C. C. C. 1862), in which there had been a large effusion of blood from a severe wound in the throat, no blood-stains were found on the clothing of the man who was convicted of the murder. It is obvious that the throat of a person while standing, sitting, or kneeling, may be cut by a murderer from behind, and thus in appearance simulate suicide. Under these circumstances the clothes of the assassin would escape being stained with blood. The flowing or spirting of blood upon the clothes of the assailant will depend upon his position in relation to the deceased at the time of inflicting the wound, and this must always be a matter of pure speculation. In entire violation of this simple principle, the fact of a prisoner's clothes not being marked with blood has been on more than one occasion urged as a proof of his innocence. (*Reg.* v. *Dalmas*, C. C. C., June, 1844.) In this case the counsel for the prisoner wished to impress the jury, in what is commonly denominated a "powerful" speech (in which medical facts and opinions are usually ignored), that no person could cut the throat of another without having his clothes covered with blood; and as there was not proved to be any blood on his clothes, the prisoner could not have been guilty of the crime. The facts were simply that the throat of the woman was cut while she was walking across Battersea Bridge, the prisoner having inflicted the wound from behind! Policemen are frequently misled in searching for criminals by looking for blood on clothing as a necessary accompaniment of an act of murder. This also leads them to magnify stains of red paint, iron rust and fruit-stains on the dress of an accused person into marks of blood!

The presence of spots of blood on articles of clothing, knives, &c., taken from the persons of those who are accused of murder, may be quite consistent with innocence. Small spots or stains have often an undue importance attached to them. I have known minute spots of blood on the shirt of a man tried for murder by wounding, regarded as furnishing proof of criminality, until it was explained that they were probably derived from flea-bites, and that some were on one side and some on the other, showing that the shirt had been worn on the two sides. The coarse clothing worn by laborers may acquire blood-spots from a variety of accidental circumstances, which the accused may not always be able to explain. When he knows the stains are there, and shows great anxiety to give some explanation of their presence, as by falsely stating that he had assisted in killing a pig, a rabbit, or that he was carrying game about him—[or, as in the case of Christian Berger, convicted of the murder of Miss Watts in 1866, that he had kicked a piece of raw meat in a butcher shop, and thus made his shoe bloody.—P.]—there may be strong ground for suspicion; but a medical practitioner should always make due allowance for the accidental presence of blood on the clothes of working men.

CHAPTER XXVI.

CHEMICAL EXAMINATION OF BLOOD-STAINS.—STAINS OF BLOOD ON LINEN AND OTHER STUFFS.—AGE OR DATE OF THE STAINS.—OTHER STAINS RESEMBLING BLOOD.—BLOOD ON WEAPONS.—ARTERIAL AND VENOUS BLOOD.—VARIETIES OF BLOOD.—BLOOD OF MAN AND ANIMALS.—MICROSCOPICAL EVIDENCE.

Examination of Blood-stains.—It may appear at first sight an easy matter to say whether certain suspected spots or stains on articles of clothing, furniture, or weapons are or are not owing to blood; but in practice, great difficulty is often experienced in answering the question. If the stains are large and recent, most persons may be competent to form an opinion; but the physical characters of blood are soon changed, even when the stuff is white and otherwise favorable for an examination. If the stains, whether recent or of old standing, are upon dark dyed woollen stuffs, as blue, black, or brown, cloth, or if they appear in the form of small or detached spots, or in thin films on dark clothing or rusty weapons, no one but a competent medical man should be allowed to give an opinion.

Chemical Analysis.—There is no direct chemical process by which blood can be identified, but we presumptively establish its nature by determining the presence and properties of the red coloring matter, or *hæmatine*. The chemical properties of the red coloring matter of blood are as follows: 1. It readily combines with cold *distilled water*, forming, if recent, a bright red solution. 2. The red color of this solution is not changed to a crimson or a green tint by a few drops of a weak solution of *ammonia*. If the ammonia is concentrated, or added in large quantity, the red liquid will acquire a brownish tint. 3. The red liquid when *boiled* is coagulated—the color is entirely destroyed, and a muddy brown flocculent precipitate is formed, the quantity of which will depend on the quantity of coloring mattering and albumen present. This coagulum, when collected on a filter and dried, forms a black resinous-looking substance, quite insoluble in water, but readily dissolved by boiling *caustic potash*, forming a solution which is of a greenish color by reflected, and reddish by transmitted light. 4. To the above tests some have added the action of strong nitric acid, which coagulates the red coloring matter, turning it of a dirty brown hue. Such are the chemical properties of recent blood, whether derived from the human body or from that of any warm red-blooded animal.

Of the various red coloring matters extracted from vegetable and animal substances, there are none which to the experienced eye, present the peculiar crimson red tint of blood, especially when the

substance is examined in a good light by a low power of the microscope. When solutions of these red coloring matters are treated with ammonia, some, such as cochineal, logwood, and the colors of roots and woods, acquire a deep crimson tint, while others, such as the coloring matter of the rose and the red colors of flowers and fruits, are changed to a blue or green. The red colors are not destroyed by a boiling temperature, and even when mixed with albumen this principle is coagulated, but the red coloring matter remains unchanged. In the case of blood, the effect of heat is to destroy the color entirely.

When these vegetable colors are found upon linen and similar stuffs, they present under the microscope the appearance of a uniform stain or dye, unlike blood in color. There is no coagulum to be seen, and the stained stuff is not stiffened as it is by the serum of dried blood.

Stains of Blood on Linen and other Stuffs. Their Age or Date.— Supposing the stuff to be white or nearly colorless, the spot of blood, if *recent*, is of a red color; but it sooner or later becomes of a reddish-brown, or of a deep red-brown color. The change of color to a reddish-brown I have found to take place in warm weather in less than twenty-four hours. After a period of five or six days, it is scarcely possible to determine, from the appearance, the date of a stain even conjecturally. In a large stain of blood on linen, no change took place during a period of five years: it had a reddish-brown color at the end of six weeks, which it retained for the long period mentioned. Indeed, it is extremely difficult in any case, after the lapse of a week, to give an opinion as to the actual date of a stain. Upon colored stuffs, or dirty clothes, it is of course impossible to trace these physical changes in stains of blood; on red-dyed stuffs the stain appears simply darker from the first, and in all cases the fibre of the stuff is more or less stiffened, as a result of the drying of the albumen associated with the red-coloring matter. In examining an article of clothing, attention should be paid to the side of the stuff which has first received the stain: sometimes both sides are stained. The evidence derived from an observation of this kind may be occasionally of importance.

The suspected stain should be first examined in a strong light, with a low power of the microscope. If caused by blood, it will not be a mere coloring of the fibres, but it will have a shining glossy appearance, and each fibre will be observed to be invested with a portion of dried coagulum or clot. In other cases, minute coagula or clots presenting the appearance of dried jelly will be seen in the meshes of the stained article of clothing. In certain lights the clots may appear of a dark red color, but by changing the light, bright translucent portions of a peculiar crimson tint will come into view. The crimson stain of blood is unlike that of any other red coloring matter, and when the stained portion presents the character of a glossy dry coagulum, the stain cannot be easily mistaken by a practised eye for one caused by any other red coloring matter. In fact, the microscope puts the observer of a small stain in the same posi-

tion as a non-professional person, who unhesitatingly forms his judgment from a large quantity of dried blood. Portions of kino over a dress may present occasionally the appearance of coagulated blood; but kino differs in color and in chemical properties from blood. The microscopical observation of a suspected stain on linen, cotton, or woollen, however small, is generally sufficient to enable an expert to form an opinion either in the affirmative or negative. The application of chemical tests may be resorted to for confirmatory evidence when there is any doubt in the mind of the observer.

If the stain is of sufficient size a slip of the dress, with the stain upon it, may be removed and suspended by a thread in a test-tube containing a small quantity of distilled water. After a few minutes, or a few seconds, should the stain be recent, a red liquid will be seen falling to the bottom of the test-tube, giving, when the blood is fresh, a red color to the lower stratum of water, and when of old standing, a dark red-brown color. Should the stuff be thick and coarse, or not readily pervious to water, the separation may not take place in less than an hour. When the stain is on thin silk or linen, I have found it to be speedily separated. Several slips of the stuff may be thus successively treated, until a liquid sufficiently deep in color for testing, is procured. If the quantity of colored liquid thus obtained is small, the supernatant clear water may be carefully poured off or drawn off by a pipette; but it will be found more convenient to use a small tube and a small quantity of water. The colored liquid may then be tested by weak ammonia, and by the application of heat as already described. If ammonia produces any effect upon the solution of blood, it is simply to brighten it; this alkali never changes the red color of blood to *green* or *crimson*. When the stain is old, the solution in water is very slowly obtained, and does not present the bright red color of blood. In some cases if the stain is of very old standing, and had been much exposed to the atmosphere, water will have scarcely any solvent effect upon it, and it may be found impossible to obtain a red-colored liquid even after twenty-four hours' maceration. At the most, the water may acquire a pale brown or yellowish color, but wholly unlike that imparted by blood. In such a case it is useless to add ammonia. We may, however, generally form a correct judgment by the microscopical appearance of the stain before wetting it, and by obtaining crystals of hæmatin with the use of glacial acetic acid (see p. 249, post). Water may dissolve sufficient albumen (or serum) to become opaline by *heat*, or by the addition of nitric acid, although we may fail to obtain any evidence of the presence of corpuscles. From the results obtained by spectral analysis (post p. 250), it appears probable that acid and other vapors in the atmosphere affect blood-stains and alter their chemical properties. Where much coal is burnt, sulphurous acid may operate in this manner. Under other circumstances, when the quantity of blood effused is moderately large, it may be detected by the process above mentioned, after the lapse of a considerable time. I have thus detected the blood of the human body, and of the bullock, on cotton, linen, and flannel, after the lapse of *three years*. If the stuff is dyed, we

should proceed to examine the stains found upon it by a similar process. The dye is commonly fixed, and is not soluble in water. Thus, then, in testing for blood, we rely upon: 1. The solubility of the red coloring matter in water. 2. The negative action of ammonia. 3. The positive effect of heat in entirely coagulating and destroying the red coloring matter.

Should the linen or stuff which is stained with blood have been heated to a high temperature, the coloring matter may, as a result of coagulation, be rendered insoluble in water: but this is an exceptional condition. In the case of a body found wounded and burnt, it would be proper to allow for such a change, and the chemical evidence would fail. Should the blood-stain be mixed with oil or grease, this will interfere with the solvent action of water. Should it be on a plaster-wall or on wood we must scrape or cut out a portion, and digest it in a small quantity of water in a tube or watch-glass. An unstained portion of the plaster or wood should also be examined.

There are red stains bearing a resemblance to blood, which are insoluble in water. These may be identified by their special characters. Among them are: 1. Certain *red dyes*, as madder, which, when fixed by a mordant, is not readily affected by ammonia. 2. *Iron-moulds.* These are of a reddish-brown color, sometimes of a bright or orange red, they are quite insoluble in water, but are easily dissolved by diluted hydrochloric acid, and on adding ferrocyanide of potassium to the hydrochloric solution, the presence of iron will be at once apparent. Care should be taken that the acid used for this purpose contains no iron. Iron-moulds are generally distinguished by their brown color, and by the absence of all stiffening of the fibre, on the stained spot. 3. *Red paint.* Stains made with red paint containing peroxide of iron, have been mistaken for blood. They may be easily known by digesting them in diluted hydrochloric acid, and applying to the solution the tests for iron. Like those produced by iron-moulds, they are quite insoluble in water, and therefore cannot be confounded with blood-stains. The same may be said of spots of the ammonio-nitrate of silver changed by light, which I have known to be mistaken for old stains of blood. The stuff on which the spots of blood are found, may be itself stained with a red dye or color, or it may be dyed with iron: in this case it will be necessary to test by the same process a piece of the colored or stained portion, in order to furnish negative evidence that the suspected stains are due to blood. 4. Among soluble stains resembling those of blood, are the spots produced by the juices of the *mulberry*, *currant*, *gooseberry*, and other *red fruits.* They may be sometimes recognized chemically, by dropping on them a weak solution of ammonia—when the spot is turned either of a bluish, olive-green, or green color. The red of cochineal is changed to a crimson on the addition of *weak* ammonia; but a spot of blood thus treated undergoes no change of color from the addition of the alkali. Diluted acids brighten the red colors of fruit stains, but they do not alter the color of blood. It is also worthy of note that a strong solution

of chlorine bleaches the red colors from fruit stains, but when applied to a stain of blood it turns the red coloring matter of a dark olive-green color and does not bleach it. These effects are only well observed on white stuffs.

If a colored liquid is obtained from a piece of the stained stuff suspended in *water*, it is easily distinguished from blood, by its acquiring a green or crimson tint on the addition of ammonia, and by the red color not being *coagulated* or destroyed when the liquid is boiled. A solution of chlorine added to the colored liquid also presents a ready means of distinction. The colors of fruits and flowers are instantly destroyed—while the color derived from blood is altered to a dingy olive, and the albumen of the serum is precipitated. In some red stuffs, the dye is often so bad, that water will dissolve out a portion of the color; but in this case, the action of ammonia, heat, and chlorine will serve readily to distinguish the stains from blood. The soluble red or brown stains given by woods or roots, such as *Logwood*, *Brazil-wood* or *Madder-root*, are changed to a *crimson* color by ammonia. They contain tannic acid, and acquire a dark olive-green color when touched with a persalt of iron. It may be generally remarked of these stains, whether they are soluble or insoluble in water, that, although to the naked eye they may bear a slight resemblance to blood, they are wholly different when examined microscopically. The distinction of color is well marked and there is an absence of any appearance of coagulum, or of stiffening of the fibre. When thus carefully examined, it is not probable that they can ever be mistaken for blood.

Detection of Blood on Weapons.—When recent, and on a polished instrument, stains of blood are easily recognized; but when of old standing, or on a rusty piece of metal, it is a matter of some difficulty to distinguish them from the stains produced by rust or other causes. If the stain is large and dry, a portion may be easily scraped off: this should be placed in a watch-glass with some distilled water—the solution filtered to separate any oxide of iron, and then tested. If the water by simple maceration does not acquire a red or red-brown color, the stain is *not* due to blood. If it acquires a red color, the solution may be tested by the methods above described. Sometimes the stain appears on a dagger or knife either in the form of a thin yellowish or reddish film, or in streaks, and is so superficial that it cannot be mechanically detached. We should then pour a thin stratum of water on a piece of plate-glass, and lay the stained part of the weapon upon the surface. The water slowly dissolves the coloring matter of blood, and the colored liquid may be examined by the chemical processes above recommended. If the weapon has been exposed to heat, this mode of testing may fail. There is often a remarkable resemblance to the stains of blood on metal, produced by the *oxide or certain vegetable salts of iron.* If the juice or pulp of lemon or orange is spread upon a steel blade, and is exposed to the air for a few days, the resemblance to blood produced by the formation of *citrate of iron* is occasionally so strong that I have known well-informed surgeons to be completely deceived: they have pro-

nounced the spurious stain to be blood. These stains, which owe their color to *citrate of iron*, may be thus distinguished: The substance is soluble in water, forming, when filtered, a yellowish-brown solution, totally different from the red color of blood under the same circumstances. The solution undergoes no change of color on the addition of ammonia. It is unchanged in color, but may be partially coagulated at a boiling temperature, and it is at once identified as a salt of iron by giving a blue color with the ferrocyanide of potassium.

It is not always easy to distinguish by sight a stain of blood on a weapon from a mark produced by *iron-rust*. When suspicion exists, marks are pronounced to be due to blood, which, under other circumstances, would have passed unnoticed. One source of difficulty is this: the iron-rust on an old knife is often mixed with some article of food or even with blood itself. We must here pursue the same mode of examination as if the stain were of blood; we macerate the weapon, or a portion of the colored deposit scraped from the surface, in a small quantity of distilled water, and filter the liquid. If the stain is due to iron-rust alone, this will be separated by filtration, and the liquid will pass through colorless. The absence of blood is thereby demonstrated. In all old blood-stains on rusty weapons, blood and oxide of iron are usually intermixed. The blood may be separated by digesting the compound in distilled water in a small tube, and decanting the solution from any sediment. The coloring matter is dissolved by the water, while the rust is left as a sediment. Dilute acetic acid will dissolve the blood, and leave the rust.

From the foregoing remarks, we may justly infer that the chemical analysis of suspected spots or stains on weapons and clothing, is by no means an unimportant duty. If we cannot always obtain from these experiments affirmative evidence, they often furnish good negative proof, and thus tend to remove unjust suspicions against accused parties.

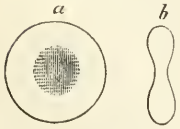
Arterial and Venous Blood.—It is not possible to distinguish *arterial* from *venous* blood by any physical or chemical characters, when it has been for some days effused, and is in a dry state upon articles of dress or furniture; but this, in medico-legal practice, is not often a subject of much importance, since there are few cases of severe wounds, either in the throat or other parts of the body, in which the two kinds of blood do not escape simultaneously. The most striking and apparent difference between them, when recently effused, is the *color;* the arterial being of a bright scarlet, while the venous is of a dark red hue; but it is well known that the latter, when exposed to air for a short time, acquires a florid red or arterial color; and the kinds of blood, when dried, cannot be distinguished chemically by any known criterion. If the coat, or other stuff, stained with blood, were of a dark color, the liquid would be absorbed, and speedily lose its physical characters. Arterial blood contains more fibrin than venous, and coagulates more firmly. The microscope shows no appreciable difference in the blood-corpuscles, and chemistry does not enable us to apply any test so as to make a satisfactory distinction between

them. In this deficiency of microscopical and chemical evidence, an attempt has been made to establish a distinction by noticing the physical appearance of the blood-stains. Thus, it is alleged, the arterial blood will be indicated by its being *sprinkled* over surfaces upon which it has fallen, while the venous blood is always poured out in a full stream. In most wounds which prove fatal by hemorrhage, the blood is poured out simultaneously from arteries and veins. The sprinkled appearance of the blood, when it exists, will, cæteris paribus, create a strong presumption that it was poured out from a *living* body—for after the heart has ceased to act, the arteries lose the power of throwing out the blood in jets. The sprinkling is usually observed when the wounded artery is small, and the blood is effused at a distance. This is a fact which a medical jurist should not overlook, although, for the reasons stated too great a reliance must not be placed on it. The spots of blood, if thrown out from a living bloodvessel, speedily consolidate, and the fibrin, with the greater portion of the coloring matter, is found of a deep red color at the lower part of the spot, the upper portion being of a pale red. The lower and thicker part has commonly a shining lustre, as if gummed, when the spot is recent, and when it has been effused upon a non-absorbent surface.

When blood falls upon porous articles of clothing, as linen or cotton, it is absorbed, and produces a dull stain. In dark-colored articles of dress, it is sometimes difficult by daylight to perceive these stains. The part appears stiffened, and has a dull red-brown color, which is sometimes more perceptible when seen by the reflection of the light of a candle. In trusting to the coagulation of the sprinkled blood as evidence of its escape from a living vessel, it must be remembered that three hours may elapse before it coagulates in the healthy body after death. Hence, blood which has escaped from a recently dead body, athough it would not be found diffused as if by spurting, might, in so far as coagulation is concerned, assume the appearance of having been effused from a living body. In spite of the great advances made in the construction and use of the microscope, there is no method known by which the blood of a man can be distinguished from that of a woman, or the blood of a child from that of an adult.

Microscopical Evidence. Blood-corpuscles.—Hitherto the microscope has been referred to as an aid to the examiner in drawing a distinction between the appearances presented by blood-stains in the dry state, and those caused by other substances. Its use, however, extends much beyond this. The spots or stains may be so small as not to admit of removal, for the purpose of applying chemical tests. If an examination of the dry stain with a low power (20 or 30 diameters) justifies further proceedings, we may then employ the microscope for the purpose of detecting those peculiar bodies on which the color of red blood is known to depend. The red coloring matter of

Fig. 38.



Blood-corpuscle highly magnified.

blood consists of minute colored cells or corpuscles, floating in a clear liquid (serum). The engraving (Fig. 38) shows the form which the corpuscle presents in the class mammalia. *a* represents the circular form, when seen in front, the shaded portion being a depression which under a certain disposition of the light assumes the appearance of a solid and opaque nucleus; *b* represents the corpuscle seen edgewise, in which case it presents somewhat the outline of a biconcave lens. It owes this form to the central depression on each face. Other red coloring matters, such as madder, cochineal, or lac, do not owe their color to independent cells or corpuscles. Hence, if corpuscles, of the form and size of those found in mammalian blood, are visible under the microscope there can be no doubt that the liquid is blood. Such evidence, can, however, be safely received only from one who has been accustomed to the use of this instrument and to the examination of blood. In order to examine the suspected substance for corpuscles, the best plan of proceeding, when the particles of coagulum are very small, is to breathe several times on a glass slide, then place the small fragments of coagulum on the slide, and again breathe over them. A slip of thin glass may then be laid upon them. If they consist of blood a red margin will soon appear, and in the fluid portion, by the aid of a magnifying power of from 300 to 500 diameters, some of the corpuscles of the blood may be recognized. They are seldom so perfectly spherical as in the fresh state, and they appear small, and frequently shrunk or corrugated. In some cases, only fragments of the envelopes can be seen. The condensed moisture of the breath may serve the purpose of water, in breaking up the small portions of dried blood without destroying the corpuscles by too much dilution.

If the suspected clot is in larger quantity, it may be removed from the stuff and placed to macerate in one or two drops of water on a glass slide. It should be covered with thin glass, in order to prevent rapid evaporation. This method of extracting the corpuscles has frequently failed, owing to the quantity of water employed having been too large. Under these circumstances, the corpuscles are distended, become of a globular form, paler and are finally destroyed, while the water simply becomes colored. It is by no means easy in all cases to obtain from dry coagula clear and distinct evidence of the presence of these corpuscles, especially when the blood is old. In drying, the blood-cells lose their form, and they do not readily resume it when again moistened. Unless they are seen after a short maceration in a very small quantity of water, it is probable they will not be seen at all. To accelerate their separation various chemical liquids have been recommended. The strong solutions of sulphate of soda and common salt, as well as liquid albumen and serum, have been employed as fluid media for breaking up the dried clots of blood. There are disadvantages attending the use of these; and after many experiments, I have found that a mixture of glycerine and water may be employed in place of pure water. The proportions which are most convenient are, one part by measure of glycerine, to three parts by measure of distilled water. A solution

of arsenious acid, in the proportion of four grains to an ounce of distilled water, as recommended by Dr. Kunze, is also a rapid solvent of the coagula. When this is used the examination should take place as soon as the liquid begins to be colored at the margin, or the corpuscles may be destroyed, and only fragments of their envelopes seen.

In reference to stains on clothing, if they present any appearance of dry coagula, these should be carefully scraped off, and treated in the manner above described. If no portions of solid coagula can be procured, there will be but little hope of obtaining evidence of the presence of corpuscles in the suspected stain. The stained portion may be cut out and macerated in a small quantity of water. Under these circumstances, the corpuscles may be sometimes seen aggregated, or in groups, in the fibres of the stuff, as in the subjoined engraving, in which the stain of blood was on a shirt. (Briand's "Manuel de Méd. Lég." p. 747, 1863.)

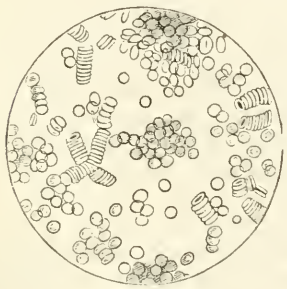
Fig. 39.

a. Corpuscles of blood in linen fibre; *b*, a group detached.

The subjoined illustrations (Figs. 40 and 41) show the appearances presented by blood-corpuscles, when examined by a power of about 300 diameters, and under different methods of treatment. Fig. 40 represents the appearance of a drop of healthy human blood. The red blood-cells are partly detached, partly united in rolls, and partly in irregular clusters. In the vacant spaces between them there are delicate threads of fibrin. The outlines of the blood-cells are rendered, in some instances, indistinct, by reason of this web of fibrin above them.

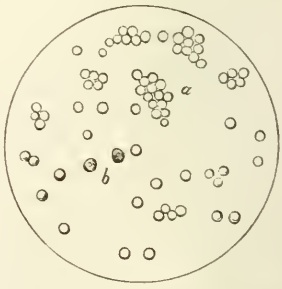
In Fig. 41 the corpuscles are seen free from fibrin, and in groups as well as singly. Only a small portion of those which were in the field have been engraved. The shaded bodies are the white corpuscles of the blood; they are not so well defined in form, and present an irregularity of surface, by which they may be distinguished from the colored blood-cells.

Fig. 40.



Human blood-corpuscles with fibrin.

Fig. 41.



Human blood-corpuscles from a dried specimen magnified 319 diameters.

Some practice in the use of the microscope is required to enable a medical man to arrive at a correct conclusion in these investiga-

tions. Granules of starch and the spores of vegetables might be mistaken for blood-corpuscles. Erdmann states that in examining some articles of clothing in a case of suspected murder, he thought he had found blood-globules in the liquid which he procured, but he found on further inspection that they consisted of the red-colored spores of an alga known as the *porphyridium cruentum*. ("Ed. Med. Journal," Oct. 1862, p. 370.) The size of the bodies as well as their shape will sometimes aid the observer. The blood-corpuscles have a definite size; the bodies seen under the microscope may be either too large or too small to fall within the exceptional range of size. Hence the micrometer is a necessary adjunct to the instrument. Granules of starch would be identified by the blue color imparted by iodine.

Blood of Man and Animals.—When marks of blood have been detected on the dress of an accused person, it is by no means unusual to find these marks accounted for by his having been engaged in killing a pig, bullock, or sheep, or in handling fish or dead game. Of course every allowance must be made for a statement like this, which can be proved or disproved only by circumstances; but the question here arises whether we possess any *certain* means of distinguishing the blood of a human being from that of an animal.

There are no chemical differences between the blood of man and animals. The red coloring matter, the albumen and fibrin, are the same, and chemical tests produce on them precisely similar results. The microscopical differences refer to the *shape* and *size* of the corpuscles. 1. With respect to *shape*. In all animals with red blood, the globules have a disk-like or flattened form. In the mammalia, excepting the camel tribe, the outline of the disk is *circular* (Fig. 38 *a*). In this tribe, and in birds, fishes, and reptiles, the corpuscles have the form of a lengthened ellipse or *oval*. In the three last-mentioned classes of animals they have a central nucleus, which gives to them an apparent prominence in the centre. The blood corpuscles of all the mammalia, including those of the camel tribe, have no central nucleus, and they appear depressed in the centre. The microscope, therefore, enables an observer to distinguish the blood of birds, fishes, and reptiles, from that of a human being; and this may be of great importance as evidence.

The chief microscopical distinction between the *blood of man and domestic animals*, consists in a minute difference in the *size* of the corpuscles. This, however, is only an average difference; for the corpuscles are found of different sizes in the blood of the same animal. In making use of this criterion, it would be necessary to rely upon the size of the majority of the corpuscles seen in a given area, and under the same power of the microscope. It is a curious fact that their size bears no relation to the size of the animal. Thus, in the horse, ox, ass, cat, mouse, pig, and bat, they are, on an average, nearly of the same size; the difference is so slight as to be practically inappreciable. In these animals they are smaller than in man, and in several of the mammalia. The corpuscles in man, the dog, the rabbit, and the hare, are of nearly the same size. In the blood of the sheep

and goat, they are smaller than in other mammalia. The size of the corpuscles bears no proportion to the age of the animal; thus in the blood of the human fœtus they are to be found as large as in that of the adult.

The measured diameter of that of the corpuscles in *human blood* varies, according to Gulliver, from 1-2000th 1-4000th of an inch, the average size in both sexes being 1-3200th of an inch. From an examination of numerous specimens of fresh human blood, I have found the average diameter of the globules to be the 1-3500th part of an inch, the maximum size being 1-3000th, and the minimum 1-5000th of an inch. The corpuscles of human blood are larger than those of domestic animals. The subjoined measurements, in fractions of an inch, are those given by Mr. Gulliver, excepting the figures in brackets, which are from my own micrometrical observations. The average diameter is, in the dog, 1-3540th (max. 1-4000th min. 1-6000th)—in the hare, 1-3607th (1-4000th; max. 1-2000th, min. 1-8000th), in the mouse, 1-3814th—in the ass, 1-4000th—(rabbit, 1-4000th)—in the pig, 1-4230th (1-4253th)—in the ox, 1-4267th—(in the cow, 1-4000th to 1-4200th)—in the cat, 1-4400th—in the horse, 1-4600th (1-5000th), in the sheep, 1-5300th (1-5333d to 1-6000th)—in the goat, 1-6366th. These measurements apply to *recent* blood, which has not been allowed to become dry on animal and vegetable stuffs. In this case a distinction might be made between the blood of a human being and a sheep or goat. With respect to the dog, hare, and rabbit it would be, even under these favorable circumstances, a matter of some difficulty. When blood is dried on clothing, and it is necessary to extract the corpuscles by means of a liquid of a different nature from the serum, we cannot rely on slight fractional differences, since we cannot be sure that the corpuscles, after having been once dried, will ever reacquire in a foreign liquid, the exact size which they had in serum. Medical evidence must therefore be based, in such cases, on mere speculation. (See "Guy's Hospital Reports," vol. 7, pt. 2, 1851.)

In reference to this question, therefore, it must be regarded as still unsolved. There are no certain methods of distinguishing microscopically or chemically the blood of a human being from that of an animal, when it has been once dried on an article of clothing. The extent to which a medical witness is justified in going on trials for murder, on which this important question arises, appears to me to be this: the size and shape of the corpuscles may or may not be consistent with their being the corpuscles of human blood, but it is impossible, in the present state of science, to affirm that they are *not* those of some domestic animal, belonging to the class mammalia. For information on this subject, see Ritter's Prize Essay, "Ueber die Ermittelung der Blutflecken in Kriminalfällen," Wurzberg, 1854, and Friedberg's "Histologie des Blutes," Berlin, 1852. These authors affirm, from their observations, that it is not possible to distinguish by the microscope human from animal blood in criminal cases. Evidence based upon such varying averages as those above given, must be treated as speculative and unsafe. [In Commonwealth

v. Armstrong, Philadelphia, 1860, Dr. Leidy testified from a microscopic examination of the blood alleged by the accused to be chicken blood, that the assertion was false, and the blood was that of a human being.—P.]

Blood-crystals. Hæmatin.—Another process for the microscopical detection of blood has been, of late years, suggested by some German medical jurists. It consists in procuring crystals from the red coloring matter of blood. Lehmann and Kunze ascertained that all red blood is capable of crystallization, from whatever animal or organ it may have been taken. Lehmann thus describes his method of procuring these hæmatin crystals. A drop of blood which has been kept a day, is allowed to evaporate on a glass slide; a drop of distilled water is then added, and the whole is covered with a slip of thin glass. After a time, when the water has to some extent evaporated, regular red-colored crystals, of various sizes and forms become visible under the microscope.

The following plan may be adopted for procuring these so-called Hæmatin crystals: Having removed a portion of the dried coagulum of blood, it should be powdered and boiled with glacial acetic acid in a small porcelain cup, until a quantity of coloring matter has obviously been dissolved. The acetic acid, under these circumstances, acquires a dark-reddish, or reddish-brown color. A few drops of the clear liquid, evaporated on a slide, will leave minute red-colored crystalline-looking masses. They are plainly distinguishable from the cubic crystals of common salt, naturally contained in the blood, as well as from the phosphates. They vary much in size and shape, but generally assume the form of slender prisms with irregular rhombic terminations. Hæmatin crystals, as they were thus procured from human blood, were found to have an average length of 1-2250th of an inch, and a width of 1-9000th of an inch. Those obtained from sheep's blood were smaller than those obtained from the blood of man and of the bullock, but the resemblance is still so great, that it would be obviously impossible to base any distinction between human and animal blood upon such observations. The results, however, show that the coloring matter of blood thus treated, may be converted into quasi-crystalline forms, still preserving its red color; and that microscopical evidence of blood may be thus obtained, in cases in which the blood-corpuscles have not been successfully extracted by liquids.

Similar experiments performed on the coloring matters of cochineal, logwood, and kino, gave the following results: On treating the first with acetic acid, a pink-red color, differing from that of blood, was produced, while the extracts of logwood and kino gave a yellowish-brown color with this acid. In no case, on evaporating the acid solutions, were any crystals resembling those of hæmatine or chloride of sodium obtained.

Various opinions have been entertained respecting these blood crystals and the mode of producing them. Teichmann, who first announced this crystallizable property, added chloride of sodium to the acetic solution of the coloring matter. He thus imparted crys-

tallizable matter to the liquid itself, and destroyed the collateral proof sometimes obtainable, namely, the detection of the cubic crystals of chloride of sodium, which are naturally contained in the blood. The results obtained by Teichmann's process are called by some *hæmin* crystals, the term *hæmatin* being applied to certain spicular crystals obtained by agitating blood with ether. *Hæmatoidin* crystals are of a rhomboidal shape, and have been chiefly found, it is said, in old apoplectic clots of blood. ("Lancet," 1864, vol. 2, p. 465.)

Spectral analysis has been applied to the detection of blood with and without the use of the microscope. Dr. Stokes found that when a diluted solution of blood was viewed through a prism having a narrow slit in front of it, it presented a peculiar spectrum with certain dark bands. On examining other red liquids the results were different. The dark or absorption bands were considered to be characteristic of blood. This optical examination, however, fails to show by any special characters whether the blood is fresh or of old date, and whether it is the blood of an animal or of a human being. ("Pro. Royal Society," vol. 13, No. 66, p. 360.) When a sufficient quantity of coloring matter can be procured for an experiment of this nature, the characters of blood may be determined with equal if not greater certainty by a microscopical and chemical analysis.

A great step has been recently made by Mr. Sorby in the application of the spectroscope to the microscope for the examination of suspected blood-stains. A red, or reddish-colored solution in water is obtained by macerating the stained linen in a small quantity of distilled water in a watch-glass, and occasionally squeezing it. This liquid is placed in a glass-cell and is then examined by the compound instrument devised by Mr. Sorby. Blood under various conditions, *i. e.*, whether fresh or old, and whether treated with acids, alkalies, or other chemical liquids, such as a solution of green sulphate of iron (for the purpose of deoxidation), presents eight different spectra, well characterized by absorption-bands of variable intensity, width, and position. One-half of the spectrum from the violet end is entirely absorbed; but dark bands appear in the green and red rays. Mr. Sorby found that a perfectly distinct and satisfactory spectrum was easily obtained from 1-100th of a grain of liquid blood, making on thin linen a spot of about 1-10th of an inch in diameter, and from his experiments, he believes that the 1-1000th of a grain may be recognized with confidence. He has thus been able to detect blood in articles of clothing which had been washed, provided some traces of the red coloring matter still remained in the fibres of the stuff. This optical method of examination he has has found to be successful when applied to blood after the lapse of twenty years.

In a case of alleged murder, which was the subject of investigation in January, 1866, some faint reddish-colored stains on gray woollen cloth, visible only in a strong light, were suspected to have been caused by blood. Other stains on an overcoat worn by the accused person were also attributed to blood. Mr. Sorby examined some of the stains by his optical process, and he obtained a distinct

spectrum characteristic of blood. I examined microscopically and chemically other stained portions of the gray woollen cloth, and came to the same conclusion as Mr. Sorby, namely, that the faint reddish-colored stains had been caused by blood. Our processes, although widely different, agreed in the results, and it may be mentioned that from the fact of the blood-stains having been wetted and sponged, a more difficult case for investigation could hardly have presented itself. Our methods of examination also agreed in the result that the suspected stains or marks on the overcoat were not caused by blood. The *date* of a blood-stain cannot however be determined with any certainty by this process, unless the conditions under which it has been kept are known, and it is not possible to distinguish by it animal from human blood. (The reader will find a full description of this ingenious application of optics to legal medicine by Mr. Sorby, in the "Quarterly Journal of Science," No. 6, April, 1865, p. 205, and in the "Popular Science Review," Jan. 1866, p. 66.) [See further on the subject of this chapter, an excellent monograph on blood-stains in criminal trials, by Dr. A. Flemming, of Pittsburg, Pa., "Am. Journal Med. Science," April, 1860.—H.]

CHAPTER XXVII.

THE CAUSE OF DEATH FROM WOUNDS.—WOUNDS DIRECTLY OR INDIRECTLY FATAL.—DEATH FROM HEMORRHAGE.—INTERNAL BLEEDING.—DEATH FROM MECHANICAL INJURY.—FROM SHOCK.—DEATH FROM NUMEROUS PERSONAL INJURIES IRRESPECTIVE OF ANY MORTAL WOUND.

IT is important for a medical witness to bear in mind that in all cases of wounds criminally inflicted, the cause of death must be *certain*. No man is ever convicted upon mere medical probability. In general, there is only *one* real cause of death, although other circumstances may have assisted in bringing about a fatal result. Thus, a person cannot die of disease in the bowels and a stab in the chest at the same time, nor of apoplexy from disease and compression of the spinal marrow at the same instant. Hence it is our duty, when several apparent causes for death exist, to determine which was the *real* cause; and in stating it to the court, to be prepared to offer our reasons for this opinion. In most cases of local injury, when a person dies speedily, there will be no great trouble in settling whether disease or the injury was the cause. A difficulty may, however, exist when a person has recovered from the first effects of a wound, and has subsequently died. Besides, there may be cases in which the cause of death, in spite of the most careful deliberation, will be still obscure; or sometimes it may happen that the death of a person appears to be as much dependent on bodily disease as on an injury

proved to have been received at the time he was laboring under disease. How is an opinion to be expressed in such a case? The course which I apprehend a medical witness ought to pursue, provided he has duly deliberated on the circumstances before he appears in court, and his mind is equally balanced between the two causes, is to state at once his doubt to the jury without circumlocution, and not allow it to be extracted from him in cross-examination. It is the hesitating to assign a satisfactory cause, or the assigning of many causes for death, that gives such advantage to a prisoner's case, even when the general evidence is entirely against him. Occasionally many causes of death are assigned by a medical witness, among which some have a tendency to exculpate, and others to inculpate an accused person in a greater or less degree, and it is left to the jury to select from the number, one upon which to found a verdict. In a case of this kind an acquittal is commonly obtained.

Wounds Directly or Indirectly Fatal.—A wound may cause death either directly or indirectly. A wound operates as a *direct cause of death* when the wounded person dies either immediately or very soon after its infliction, and there is no other cause internally or externally to account for death. In wounds which cause death *indirectly*, it is assumed that the person survives for a certain period, and that the wound is followed by inflammation, suppuration, pyæmia, gangrene, tetanus, erysipelas, or some other mortal disease, which is a direct, and not an unusual consequence of the injury. Under this head may be also arranged all those cases which prove fatal by reason of surgical operations rendered imperatively necessary for the treatment of an injury—presuming that these operations have been performed with ordinary skill and care. We shall for the present consider only the direct causes of death in cases of wounds. They are three in number: 1. *Hemorrhage*, or loss of blood. 2. *Great mechanical injury* done to an organ important to life. *Shock*, or concussion, affecting the brain or spinal marrow, whereby the functions of one or more vital organs are arrested, sometimes with but slight injury to the part struck or wounded. From either of these causes, a wounded person may die immediately or within a few minutes.

1. *Death from Hemorrhage.*—Loss of blood operates by producing fatal syncope (p. 54). A quantity of blood escaping from a vessel, although insufficient to cause death by affecting the heart and circulation, may readily destroy life by disturbing the functions of the organ or part into which it is effused. Thus, a small quantity effused in or upon the substance of the brain, or at its base, may prove fatal by inducing fatal compression; and again, if, in a case of wounded throat, blood should flow into the windpipe, it may cause death by asphyxia—*i. e.*, by stopping the respiratory process (p. 55). In these cases it is obvious that the blood acts mechanically; and in respect to the last condition a medical man, unless circumspection is used, may involve himself in a charge of malapraxis. If he allows the wound to remain open, the wounded person may die through hemorrhage—if he closes it too soon, he may die through suffocation; and, in either case, the counsel for a prisoner will not fail to take advan-

tage of a plausible objection of this kind. In wounds of the chest, involving the heart and lungs, death is frequently due not so much to the actual quantity of blood effused, as to the pressure which it produces upon these organs. A few ounces effused in the cavity of the membrane including the heart (pericardium), will entirely arrest the action of this organ.

The absolute *quantity of blood* required to be lost in order to prove fatal, will, of course, vary according to numerous circumstances. The young, the aged, they who are laboring under infirmity or disease, will perish sooner from loss of blood than others who are healthy and vigorous. Women, cæteris paribus, are more speedily destroyed by bleeding than men. Infants are liable to die from this cause, as a result of slight wounds. An infant has been known to bleed to death from the bite of a single leech, or from the simple operation of lancing the gums. Even the healthy and vigorous, when their vital powers have been depressed by mal-treatment or by brutal violence, will sink under the loss of a comparatively small quantity of blood. ("Watson on Homicide," p. 90.) A medical jurist must not forget that some persons have a predisposition to excessive bleeding from slight injuries; and this condition is often hereditary. The slightest wound or puncture—the bite of a leech or the extraction of a tooth—will be attended with a loss of blood which cannot be arrested, and which will slowly lead to death by exhaustion. Cases have been frequently recorded in our medical journals of fatal hemorrhage following the extraction of teeth, when there had been previously nothing to indicate the probable occurrence of death from so trivial a cause. Such cases are without difficulty detected; since a surgeon may always infer, from the part injured and the extent of the injury, whether the bleeding is likely to be copious or not. When a person bleeds to death from what would, under common circumstances, be a simple wound, the admission of this fact may in certain cases lessen the responsibility of an accused party.

A *sudden loss* of blood has a much more serious consequence than the same quantity lost slowly. A person may fall into a fatal syncope from a quantity of blood lost in a few seconds, which he would have been able to bear without sinking had it escaped slowly. This is the reason why the wound of an artery proves so much more rapidly fatal than that of a vein. Death speedily follows the wound of a large artery like the carotid; but it takes place with equal certainty, although more slowly, from wounds of smaller arteries. In a case in which one of the intercostal arteries was wounded by a small shot, hemorrhage caused death in thirty-eight hours. The loss of blood which follows the division of the smaller branches of the external carotid artery, is often sufficient to destroy life, unless timely assistance be rendered. If a wound is in a vascular part, although no vessel of any importance be divided, the person may die from bleeding. It is difficult to say what quantity of blood should be lost, in order that a wound may prove fatal. The whole quantity contained in the body of an adult is calculated at about one-fifth

of its weight—*i. e.*, about thirty pounds; of this, one-fourth is considered to be arterial, and the remaining three-fourths are venous blood. Some physiologists have estimated the proportion as one-eighth of the weight of the body. ("Med. Times and Gaz.," Aug. 28, 1858, p. 232.) According to Mr. Watson, the loss of from five to eight pounds is sufficient to prove fatal to adults. But while this may be near the truth, many persons will die from a much smaller quantity; the *rapidity* with which the effusion takes place having a considerable influence, as well as the age, sex, and bodily condition of the wounded person. It has been found, by experiment, that a dog cannot bear the loss of more blood than is equivalent to one-twelfth part of the weight of its body.

Internal Hemorrhage.—Hemorrhage may prove fatal, although the blood does not visibly escape from the body. In incised wounds, the flow externally is commonly abundant; but in contused, punctured, and gunshot wounds, the effusion may take place internally and rapidly cause death. In severe contusions, or contused wounds, involving highly vascular parts, the effusion may go on to an extent to prove fatal, either in the cavities of the body or throughout the cellular membrane and parts adjacent; many pounds of blood may thus be slowly or rapidly effused. The most fatal internal hemorrhages are those which follow ruptures of the organs from violence or disease. Ruptures of the heart, lungs, liver, and kidneys, have thus caused death. In November, 1864, a man who had been run over was brought to Guy's Hospital. He complained of pain in the back, but there were no symptoms of severe injury, and no marks of violence were seen on the skin of the back. He left the hospital and walked with some assistance to his home. A few hours afterwards he was found dead in bed. On inspection there was a large quantity of blood effused in the abdomen. This had proceeded from one kidney, which had been ruptured transversely through its whole substance. In these cases the bleeding is not necessarily immediate; but slight muscular exertion may increase it and accelerate death. In death from severe flagellation, blood may be effused in large quantity beneath the skin and among the muscles; this effusion will operate as fatally as if it had flowed from an open wound.

The means of ascertaining whether a person has died from bleeding by an open wound are these: Unless the wound is situated in a vascular part we shall find the vessel or vessels from which the blood has issued, divided—the neighboring vessels empty, and the body more or less palid; although this last condition is of course liable to be met with in certain cases of disease, as also under copious venesection—points easily determined by an examination. The blood will commonly be found more or less clotted or coagulated on those surfaces on which it has fallen. If, with these signs, there is an absence of disease likely to prove rapidly fatal, and no other probable cause of death is apparent, it may be fairly referred to loss of blood. This opinion may, however, be materially modified in reference to open wounds, by the fact of the body not being seen on the spot where the injury was actually inflicted—by the wound having been

sponged—the blood removed by washing, and all traces of bleeding destroyed. Under these circumstances, the case must in a great measure be made out by presumptive proof; and here a medical witness may have the duty thrown upon him of examining articles of dress, furniture, or weapons, for marks or stains of blood. It must not be supposed that all the blood met with round a wounded dead body, or in a cavity of the body, was actually effused during life. As soon as the heart's action ceases, the arteries pour out no more; but the blood, so long as it remains liquid, *i. e.*, from four to eight or ten hours, and the warmth of the body is retained, continues to drain from the divided veins and smaller vessels. The quantity thus lost, however, is not considerable, unless the veins implicated are large, or the part is highly vascular, *i. e.*, full of small vessels.

2. *Death from Great Mechanical Injury done to a Vital Organ.*—We have instances of this becoming a direct cause of death in the crushing of the heart, lungs, or brain, by any heavy body passing over or falling on the cavities, as in railway accidents. The severe mechanical injury is sometimes accompanied by a considerable effusion of blood, so that the person really dies from hemorrhage; but in other instances the quantity of blood lost is inconsiderable, and the fatal effects may be referred to shock to the nervous system. Sometimes a slight amount of violence may prove suddenly fatal. These are, however, to be regarded as exceptional instances.

3. *Death from Shock.*—This is sometimes a direct cause of death under the infliction of external violence; and in this case life is destroyed without the injury being to all appearance sufficient to account for so speedily fatal a result. Mr. Savory has suggested that death from shock is nothing more than death from temporary exhaustion of nerve-force, the result of a violent, sudden, and excessive expenditure of it. ("Lectures on Life and Death," p. 171.) Whatever theory may be adopted to explain it, there is no medical doubt that a person may die from what is termed shock, without any marks of severe injury being discovered on his body after death. We have examples of this mode of death in accidents from lightning, or from severe burns or scalds, in which the local injury is often far from sufficient to explain the rapidly fatal consequences. As instances of this form of death from violence, may be also cited those cases in which a person has been suddenly killed by a blow upon the upper part of the abdomen or on the pit of the stomach, which is supposed to operate by producing a fatal impression on the nerves and nerve-ganglia of the cardiac plexus. Whether this be or be not the true explanation, it is admitted by experienced surgeons, that a person may die from so simple a cause without any mark of a bruise externally, or physical injury internally to account for death. On the skin there may be some abrasion or slight discoloration; but as it has been elsewhere stated these are neither constant nor necessary accompaniments of a blow. Concussion of the brain, unattended by visible mechanical injury, furnishes another example of this kind of death. A man receives a severe blow on the head; he falls dead on the spot, or becomes senseless and dies in a few hours. On

an inspection, there may be merely the mark of a bruise on the scalp; in the brain there may be no rupture of vessels or laceration of substance, and all the other organs of the body may be found healthy. In certain railway accidents persons have died under somewhat similar circumstances. There has been no physical indication of a mortal injury, and no cause apparent to account for death. This can be referred only to the shock or violent impression which the nervous system has sustained from the blow or violence—an impression which the vital powers were wholly unable to counteract or resist. A medical witness must give his evidence with caution in such cases; since it is the custom to rely in the defence upon the absence of any visible *mortal* wound or physical injury to account for death, as a proof that no injury was done—a principle which, if once unrestrictedly admitted, would leave a larger number of deaths, undoubtedly occurring from violence, wholly unexplained.

There is another form of shock, which is of some importance in medical jurisprudence. A person may have received *many injuries* as by blows or stripes, not one of which, taken alone, could, in medical language, be termed mortal; and yet he may die directly from the effects of the violence, either on the spot, or very soon afterwards. In the absence of any large effusion of blood beneath the skin, death is commonly referred to exhaustion, but this is only another mode of expression; the exhaustion is itself dependent on a fatal influence or impression produced on the nervous system. A prizefighter after having, during many rounds, sustained numerous blows on the body, may, either at or after the fight, sink and die exhausted. His body may present marks of bruises, or even lacerated wounds, but there may be no internal changes to account for death. In common language, there is not a single injury which can be termed *mortal;* and yet, supposing him to have had good health previously to the fight, and all marks of disease indicative of sudden death to be absent, it is impossible not to refer his death to the direct effect of the violence. It is a well-ascertained medical fact, that a number of injuries, each comparatively slight, are as capable of operating fatally, as any single wound whereby some bloodvessel or organ important to life is directly affected. Age, sex, constitution, and a previous state of health or disease, may accelerate or retard the fatal consequences.

From these considerations, it is obviously unreasonable to expect that in every case of death from violence or maltreatment, there must be some specific and visible *mortal injury* to account for this event. When the circumstances accompanying death are unknown, a medical opinion should certainly be expressed with caution; but if we are informed that the deceased was in ordinary health and vigor previous to the infliction of the violence, and there is no morbid cause to account for his *sudden* illness and death, there is no reason why we should hesitate in referring death to the effects of a number of injuries. Among non-professional persons an unfounded prejudice exists that no persons can die from violence unless there be some distinctly *mortal* wound actually inflicted on the body. By this we

are to understand a *visible* mechanical injury to some organ or blood-vessel important to life; but this is obviously an erroneous notion, since death may take place from the disturbance of the functions of an organ important to life, without this being necessarily accompanied by a perceptible alteration of structure. The prevalence of this popular error often leads to a severe cross-examination of medical witnesses. Among the questions put, we sometimes find the following: Would you have said, from the wounds or bruises *alone*, that they were likely to have occasioned death? Now, in answer to this, it may be observed, that we cannot always judge of the probability of death ensuing from the appearance of external violence alone. Because the appearances were slight, it would be wrong to infer that they were *not* sufficient to cause death by shock. Then it may be inquired, Were the wounds or bruises mortal? In the vulgar sense of the word, *i. e.*, by producing great loss of blood, or a destruction of parts, they might not be so; but in a medical view, they may have acted mortally by producing a shock to the nervous system. Again it may be inquired, Which of the several wounds or bruises found on the body of the deceased was mortal? The answer to this question may be—Not one individually, but *all* contributed to occasion death by syncope or exhaustion. It must be remembered that in cases in which a person has sustained a number of injuries, the loss of a much smaller quantity of blood than in other instances will suffice to destroy life.

When there are several wounds, it is difficult to decide on their relative degree of mortality, and on the share which each may have had in causing death. By a wound being of itself *mortal*, we are to understand that it is capable of causing death directly or indirectly, in spite of the best medical assistance. It is presumed that the body is healthy, and that no cause has intervened to bring about or even accelerate a fatal result. The circumstance of a person laboring under disease when wounded in a vital part, will not, of course, throw any doubt upon the fact of such a wound being necessarily mortal, and of its having caused death. If there should be more wounds than one, it is easy to say from the nature of the parts involved, which was likely to have led to a fatal result. In order to determine, on medical grounds, whether a wound was or was not mortal, we may propose to ourselves this question: Would the deceased have been likely to die at the same time, and under the same circumstances, had he not received the wound? There can obviously be no general rule for determining the mortal nature of wounds. Each case must be judged by the circumstances which attend it. In some Continental states, the law requires that a medical witness should draw a distinction between a wound which is *absolutely* and one which is *conditionally* mortal. An absolutely mortal wound is defined to be that in which the best medical assistance being at hand, being sent for, or actually rendered, the fatal event could not be averted. Wounds of the heart, aorta, and internal carotid arteries, are of this nature. A conditionally mortal wound is one in which, had medical assistance been at hand, been sent for, or timely rendered, the patient

would, in all probability, have recovered. Wounds of the brachial, radial, and ulnar arteries may be taken as instances. The responsibility of an assailant is made to vary according to the class of injuries to which the wound may be referred by the medical witnesses; and, as it is easy to suppose, there is seldom any agreement on this subject. Our criminal law is entirely free from such subtleties. The *effect* of the wound, and the *intent* with which it was inflicted, are looked to: its anatomical relations, which must depend on pure accident, are never interpreted in the prisoner's favor. Some extenuation may, perhaps, be occasionally admitted when a wound proves mortal through an indirect cause, as inflammation or fever, and medical advice was obtainable, but not obtained until every hope of recovery had disappeared. It appears, however, from the case of the *Queen* v. *Thomas and others* (Gloucester Aut. Ass., 1841), that the mere neglect to call in medical assistance is not allowed in law to be a mitigatory circumstance in the event of death ensuing. The deceased died from the effects of a severe injury to the head, inflicted by the prisoners, but had had no medical assistance. The judge said it was possible that, "if he had had medical advice, he might not have died; but whoever did a wrongful act must take the whole consequences of it. It never could make any difference whether the party injured had or had not the means or the mind to apply for medical advice." The prisoners were convicted. According to Lord Hale, if a man be wounded, and the wound, although not in itself mortal, turn to a gangrene or fever for want of proper applications, or from neglect, and the man die of gangrene or fever, this is homicide in the aggressor; for though the fever or gangrene be the immediate cause of death, yet the wound being the cause of the gangrene or fever is held the cause of death, causa causati. These nice questions relative to the shades of responsibility for personal injuries, occasionally arise in cases in which persons have been wounded at sea on board of a ship in which there was no surgeon.

CHAPTER XXVIII.

DEATH OF WOUNDED PERSONS FROM NATURAL CAUSES.—DISTINCTION BETWEEN REAL AND APPARENT CAUSE.—DEATH FROM WOUNDS OR LATENT DISEASE.—ACCELERATING CAUSE.—DEATH FROM WOUNDS AFTER LONG PERIODS.—AVOIDABLE CAUSES OF DEATH.—NEGLECT.—IMPRUDENCE.—UNSKILFUL TREATMENT.—UNHEALTHY STATE OF BODY.

Death of Wounded Persons from Natural Causes.—It is by no means unusual for individuals who have received a wound, or sustained some personal injury, to die from latent natural causes; and as, in the minds of non-professional persons, death may appear to be a

direct result of the injury, the case can only be cleared up by the assistance of a medical practitioner. Such a coincidence has been witnessed in many instances of attempted suicide. A man has inflicted a severe wound on himself while laboring under disease; or some morbid change, tending to destroy life, has occurred subsequently to the infliction of a wound, and death has followed. Without a careful examination of the body, it is impossible to refer death to the real cause. The importance of an accurate discrimination in a case in which wounds or personal injuries have been caused by another, must be obvious on the least reflection. A hasty opinion may involve the accused in a charge of manslaughter; and although a barrister might be able to show on the trial that death was probably attributable not to the wound, but to coexisting disease, yet it must be remembered, that the evidence of a surgeon before a coroner or magistrate, in remote parts of this country, may be the means of causing the person charged to be imprisoned for some months previously to the trial. This is in itself a punishment, independently of the loss of character to which he must be in the meantime exposed.

Death from Wounds or Latent Disease. A natural cause of death may be lurking within the body at the time that a wound is criminally inflicted, and a close attention to the symptoms preceding, and the appearances after death, can alone enable a surgeon to distinguish the real cause. A man may be severely wounded, and yet death may take place from rupture of the heart, the bursting of an aneurism, from apoplexy, phthisis or other morbid causes which it is here unnecessary to specify. ("Cormack's Ed. Jour." May, 1846, p. 343.) If death can be clearly traced to any of these diseases by an experienced surgeon, the prisoner cannot be charged with manslaughter; for the medical witness may give his opinion that death would have taken place about the same time and under the same circumstances whether the wound had been inflicted or not.

On these occasions one of the following questions may arise: Was the death of the person accelerated by the wound, or was the disease under which he was laboring so aggravated by the wound as to produce a more speedily fatal termination? The answer to either of these questions must depend on the circumstances of each case, and the witness's ability to draw a proper conclusion from these circumstances. The maliciously accelerating of the death of another already laboring under disease is criminal; for in a legal sense that which accelerates, causes. Lord Hale, in remarking upon the necessity of proving that the *act* of a prisoner caused the death of a person, says: "It is necessary that the death should have been occasioned by some corporeal injury done to the party by force, or by poison, or by some mechanical means which occasion death; for although a person may, *in foro conscientiæ*, be as guilty of murder by working on the passions or fears of another, and as certainly occasion death by such means, as if he had used a sword or pistol for the purpose, he is not the object of temporal punishment." (I. 247.) Several acquittals have taken place of late years, in cases in which the deaths of persons

have been occasioned by terror, or dread of impending danger, produced by acts of violence on the part of the prisoners; not, however, giving rise to bodily injury in the deceased. Under the 14 and 15 Vict., c. 100, the necessity for tracing death to some *corporeal* injury appears to be practically abolished. According to the fourth section, in any further indictment for murder or manslaughter it shall not be necessary to set forth the *manner* or the *means* by which the death of the deceased was caused.

Which of two Wounds caused Death.—It is possible that a man may receive *two wounds* on provocation, at different times, and from different persons, and die after receiving the second: in such a case, the course of justice may require that a medical witness should state which wound was the cause of death. Let us take the following illustration: A man receives during a quarrel a gunshot wound in the shoulder. He is going on well, with a prospect of recovery, when in another quarrel he receives a severe penetrating wound in the chest or abdomen from another person, and after lingering under the effects of these wounds for a longer or shorter period, he dies. If the gunshot wound was clearly shown to have been the cause of death, the second prisoner could not be convicted of manslaughter; or if the stab was evidently the cause of death, the first prisoner would be acquitted on a similar charge. It might be possible for a surgeon to decide the question summarily, when, for instance, death speedily followed the second wound; and on inspection of the body, the heart or a large vessel is discovered to have been penetrated; or, on the other hand, extensive sloughing sufficient to account for death, might take place from the gunshot wound, and on inspection, the stab might be found to be of a slight nature—not involving any vital parts. In either of these cases, all would depend upon the science, skill, and judgment of the medical practitioner—his evidence would be so important that no correct decision could be arrived at without it; he would be, in fact, called upon substantially to distinguish the guilty from the innocent. On some occasions death may appear to be equally a consequence of either or both of the wounds; in which case, probably both parties would be liable to a charge of manslaughter. (See "Ann. d'Hyg." 1835, vol. 2, p. 432.) The second wound, which is here supposed to have been the act of another, may be inflicted by a wounded person on himself, in an attempt at suicide, or it may have an accidental origin. The witness would then have to determine whether the wounded person died from the wound inflicted by himself or from that which he had previously received.

It may happen that the wounded person has taken *poison*, and has actually died from its effects, and not from the injuries or maltreatment. Again, a wounded person may have been the subject of subsequent ill-treatment, and the question will arise—to which of the two causes his death was really due. It is to be observed of these cases, that the supervening disease, the poison, or the subsequent ill-treatment, should be of such a nature as to account for *sudden or rapid death;* since it would be no answer to a charge of death from violence, to say that there were marks of chronic disease in the

body, unless it was of such a nature as to account for the sudden destruction of life under the symptoms which actually preceded death. In the medical jurisprudence of wounds, there is probably no question which so frequently presents itself as this: it is admitted that the violence was inflicted, but it is asserted that death was due to some other cause, and the onus of proof lies on the medical evidence. Among numerous cases which have occurred in England during the last twenty years, I find that the latent causes of death in wounded persons have been chiefly inflammation of the thoracic or abdominal viscera, apoplexy, diseases of the heart and large blood-vessels, phthisis, ruptures of the stomach and bowels from disease, internal strangulation, and the rupture of deep-seated abscesses. In some of these cases the person was in a good state of health up to the time of the violence, and in others there was a slight indisposition. The history is nearly the same in all: it was only by careful conduct on the part of the medical witnesses that the true cause of death was ascertained. It is obvious that questions of malapraxis and life-insurance, giving rise to civil actions, may have a close relation to this subject.

Death following Slight Personal Injuries.—An imputation has occasionally been thrown on the master of a school, when a boy has died soon after he has been punished in an ordinary way, and when there has been no suggestion that an undue amount of violence was used. In such cases there has been commonly some unhealthy state of the body to explain the fatal result. When the disease which gives rise to doubt is seated in a part which is remote from that which sustained the violence, all that is required is, that the examination of the body should be conducted with ordinary care. If the disease should happen to be in the part injured (the head or chest), the case is more perplexing. The difficulty can then be removed only by attentively considering the usual consequences of such injuries. The violence may have been too slight to account for the diseased appearance; and the disease itself, although situated in the part injured, may be regarded as an unusual consequence of such an injury. On the other hand, the presence of chronic disease will form no exculpation of acts of violence of this nature.

Death from Wounds after Long Periods.—Certain kinds of injuries are not immediately followed by serious consequences, but a wounded person may die after a longer or shorter period of time, and his death may be as much a consequence of the injury as if it had taken place on the spot. The aggressor, however, is just as responsible as if the deceased had been directly killed by his violence, provided the fatal result can be traced to the usual and probable consequences of the injury. Wounds of the head are especially liable to cause death insidiously—the wounded person may in the first instance recover—he may appear to be going on well, when, without any obvious cause, he will suddenly expire. It is scarcely necessary to observe, that in general an examination of the body will suffice to determine whether death is to be ascribed to the wound or not. In severe injuries affecting the spinal marrow, death is not an immediate conse-

quence, unless that part of the organ which is above the origin of the phrenic nerves (supplying the diaphragm) is wounded. Injuries affecting the lower portion of the spinal column do not commonly prove fatal until after some days or weeks; but the symptoms manifested by the patient during life, as well as the appearances observed in the body after death, will sufficiently connect the injury with that event. Death may follow a wound, and be a consequence of that wound, at almost any period after its infliction. It is necessary, however, in order to maintain a charge of homicide, that death should be strictly and clearly traceable to the injury, and not be dependent on any other cause. A doubt on this point must, of course, lead to an acquittal of the accused.

Many cases might be quoted in illustration of the length of time which may elapse before death takes place from certain kinds of injuries—the injured person having ultimately fallen a victim to their indirect consequences. A case is related by Sir A. Cooper, of a gentleman who died from the effects of an injury to the head received about *two years* previously. The connection of death with the wound was clearly made out by the continuance of the symptoms of cerebral disturbance during the long period which he survived. Another case is mentioned by Hoffbauer, in which a person died from the effects of concussion of the brain as the result of an injury received eleven years before. ("Ueber die Kopfverletzungen," 1842, p. 57.)

There is a singular rule in our law relative to the period at which a person dies from the wound—namely, that the assailant shall not be adjudged guilty of homicide, unless death takes place *within a year and a day* after the infliction of the wound. (Archbold, p. 345.) In practice, the existence of this rule is of little importance, but in principle it is erroneous. Most wounds leading to death generally destroy life within two or three months after their infliction: sometimes the person does not die for five or six months, and, in more rare instances, death does not ensue until after the lapse of twelve months, or even several years. These protracted cases occur especially in respect to injuries of the head and chest.

Secondary Causes of Death.—A person who recovers from the immediate effects of a wound may die from fever, inflammation or its consequences, pyæmia, erysipelas, delirium tremens, tetanus, or gangrene; or an operation required during the treatment of a wound may prove fatal. These are what may be called secondary causes of death, or secondary consequences of a wound. The power of deciding on the responsibility of an accused person for an event which depends only in an indirect manner on an injury originally inflicted by him, rests of course with the authorities of the law. But it is impossible that they can decide so difficult and nice a question in the absence of satisfactory medical evidence; and on the other hand, it is right that a medical witness should understand the importance of the duty here required of him. *Fever* or *erysipelas* may follow many kinds of serious wounds, and in some few instances be distinctly traceable to them; but in others, the constitution of a person may

be so broken up by dissipated habits as to render a wound fatal which in a healthy subject might have run through its course mildly, and have healed. When the fever or erysipelas can be traced to a wound, or there is no other apparent cause of aggravation to which either of these disordered states of the body can be attributed, they can scarcely be regarded by a medical practitioner as unexpected and unusual consequences, especially when the injury is extensive, and seated in certain parts of the body, as in the scalp. If death take place under these circumstances, the prisoner will be held as much responsible for the result as if the wound had proved directly mortal. This principle has been frequently admitted by our law, and, indeed, were it otherwise, many reckless offenders would escape, and many lives would be sacrificed with impunity. It is, however, difficult to lay down general rules upon a subject which is liable to vary in its relations in every case; but when a wound is not serious, and the secondary cause of death is evidently due to constitutional peculiarities from acquired habits of dissipation, the ends of justice are probably fully answered by an acquittal; in fact, such cases do not often pass beyond a coroner's inquest.

The secondary causes of death may be arranged under the following heads:—

1. *The Cause is Unavoidable.*—Of this kind are tetanus, following laceration of tendinous and nervous structures—erysipelas following lacerated wounds of the scalp—peritoneal inflammation following blows on the abdomen with or without rupture of the bladder or intestines, and effusion of their contents—strangulation of the intestines (phrenic hernia), following rupture of the diaphragm, and others of a like nature. Here, supposing proper medical treatment and regimen to have been pursued, the secondary cause of death was unavoidable, and the fatal result certain.

2. *The Cause Avoidable by Good Medical Treatment.*—There are, it is obvious, many kinds of wounds which, if properly treated in the first instance may be healed and the patient recover, but when improperly treated they prove fatal. In the latter case it will be a question for a witness to determine how far the treatment aggravated the effects of the violence, and from his answer to this the jury may have to decide on the degree of criminality which attaches to the accused. Let us suppose, for instance, that an ignorant person has removed a clot of blood, which sealed up the extremity of a blood-vessel, in consequence of which fatal bleeding has ensued; or that he has caused death by unnecessarily interfering with a penetrating wound of the chest or abdomen; it would scarcely be just to hold the aggressor responsible, since, but for the gross ignorance and unskilfulness of his attendant, the wounded person might have recovered from the effects of the wound. When death is really traceable to the negligence or unskilfulness of a surgeon who is called to attend on a wounded person, this circumstance ought to be, and commonly is, admitted in mitigation, supposing that the wound was not originally of a mortal nature. Lord Hale observes: "It is sufficient to constitute murder, that the party dies of the wound given

by the prisoner, although the wound was not originally mortal, but became so in consequence of negligence or unskilful treatment: but it is otherwise where death arises, not from the wound, but from unskilful applications or operations used for the purpose of curing it." (1, 428.) The medical jurist will perceive that a very nice distinction is here drawn by this great judge, between death as it results from a wound rendered mortal by improper treatment, and death as it results from improper treatment, irrespective of the wound. In the majority of cases such a distinction could scarcely be established, except upon speculative grounds, and in no case, probably, would there be any accordance in the opinions of medical witnesses. In slight and unimportant wounds, it might not be difficult to distinguish the effects resulting from bad treatment from those connected with the wound, but there can be few cases of severe injury to the person, wherein a distinction of this nature could be safely made: and the probability is, that no conviction of murder would now take place, if the medical evidence showed that the injury was not originally mortal, but only became so by unskilful or improper treatment. In such a case, it would be impossible to ascribe death to the wound, or to its usual or probable consequences; and without this it is not easy to perceive on what principle an aggressor could be made responsible for the result. [In *Commonwealth* v. *Hackett*, 2 Allen (Massachusetts) 136, it was held that one who has wilfully inflicted upon another a dangerous wound, with a deadly weapon, from which death ensues, is guilty of murder or manslaughter, as the evidence may prove, although through want of care or skill, the improper treatment of the wound by surgeons may have contributed to the death. See also *Commonwealth* v. *Green*, 1 Ash. 289.—P.]

3. *Comparative Skill in Treatment.*—If death has been caused by a wound, the responsibility of a person is not altered by the allegation that under more favorable circumstances and with *more skilful treatment*, a fatal result might have been averted. At the same time it is obvious that a serious responsibility is thrown on practitioners who undertake the management of cases of criminal wounding. Any deviation from ordinary practice should therefore be made with the greatest caution, since novelties in practice will, in the event of a fatal result, form one of the best grounds of defence in the hands of a prisoner's counsel. On these occasions every point connected with the surgical treatment will be the subject of rigorous inquiry and adverse professional criticism. In the case of a severe lacerated wound in the hand or foot followed by fatal tetanus, it may be said that the wounded person would not have died had amputation been at once performed. In this instance, however, a practitioner may justify himself by showing either that the injury was too slight to require amputation, or that the health or other circumstances connected with the deceased would not allow of its being performed with any reasonable hope of success. On the other hand, if the practitioner performed amputation, and the patient died, then it would be urged that the operation was premature, or wholly unjustifiable, and that it had caused death. Here the surgeon is bound to show that

the operation was necessary according to the ordinary rules of practice. The treatment of severe incised wounds of the throat, when the windpipe is involved, sometimes places a practitioner in an embarrassing position. If the wound is left open, death may take place from bleeding; if it be prematurely closed, blood may be infused into the windpipe and cause death by suffocation.

4. *The Cause Avoidable but for Imprudence or Neglect on the Part of a Wounded Person.*—A man who has been severely wounded in a quarrel, may obstinately refuse medical assistance, or he may insist upon taking exercise, or using an improper diet, contrary to the advice of his medical attendant; or by other imprudent practices, he may thwart the best conceived plans for his recovery. Let us take a common case as an illustration. A man receives a blow on the head in a pugilistic combat, from the first effects of which he recovers, but after having received surgical assistance, he indulges in excessive drinking, and dies. The aggressor is tried on a charge of manslaughter, and found guilty. Death under these circumstances is commonly attributed by the medical witness to effusion of blood on the brain; but it cannot be denied that the excitement produced by intoxicating liquors, will sometimes satisfactorily account for the fatal symptoms. In the case which we are here supposing, such an admission might be made, and the prisoner receive the benefit of it; for the imprudence or negligence of a wounded person ought not, morally speaking, to be considered as adding weight to the offence of the aggressor. If the symptoms were from the first unfavorable, or the wound likely to prove mortal, circumstances of this kind could not be received in mitigation. Our judges have shown themselves at all times unwilling to admit them. The legal responsibility of the assailant is the same, whether the deceased die on the spot, or some days, weeks, or months afterwards, unless it can be distinctly proved that his death was immediately connected with the imprudence or excess of which he was guilty, and wholly independent of the wound. But, although a prisoner should be found guilty of manslaughter under these circumstances, the punishment is so adjusted by our law as to leave a considerable discretionary power in the hands of a judge. This is, indeed, tantamount to a direct legal provision, comprehending each different shade of guilt; a man is held responsible for a wound rendered accidentally mortal by events over which he could have no control, but which in themselves ought to be regarded as in some degree exculpatory. The punishment attached to his offence may be severe or slight, according to the representation made by a medical witness of the circumstances which rendered the wound mortal; if he neglect to state the full influence of imprudence or excess on the part of the wounded person, where either has existed, over the progress of the wound, he may cause the prisoner to be punished with undue severity. The humanity of our judges is such, that when medical evidence is clear and consistent on a point of this nature, and there are no circumstances in aggravation, they commonly pass a mild sentence. (See case by M. Ollivier, "Ann. d'Hyg." 1842, p. 128.) The neglect to

call in a medical practitioner, or the refusal to receive medical advice, will not, however, according to the decision in *Reg.* v. *Thomas* (Gloucester Aut. Ass. 1841), be considered a mitigatory circumstance in favor of the prisoner, even although the wound was susceptible of being cured. A man may receive a lacerated wound of a limb, which is followed by tetanus or gangrene, and thus proves fatal; he may have declined receiving medical advice, or have obstinately refused amputation, although proposed by his medical attendant. This would not operate as a mitigatory circumstance on the part of an assailant, because a wounded person is not compelled to call for medical assistance, or to submit to an operation, and a medical witness could not always be in a condition to swear that the operation would have positively saved his life; he can merely affirm that it might have afforded him a better chance of recovery. Again, a person may receive a blow on the head, producing fracture, with great depression of bone, and symptoms of compression of the brain: a surgeon may propose the operation of trephining to elevate the depressed bone, but the friends of the wounded man may not permit the operation to be performed. In such a case, his line of duty will be to state the facts to the court, and it is probable that in the event of conviction there would be some mitigation of punishment; because such an injury, if left to itself, must in general prove mortal, and no doubt could exist in the mind of any surgeon, as to the absolute necessity for the operation. But the neglect or improper conduct of a person who receives a wound thus rendered fatal, does not exculpate the aggressor. The crime is either murder or manslaughter.

5. *The Cause Avoidable but for an Abnormal or Unhealthy State of the Body of the Wounded Person.*—Wounds which are comparatively slight sometimes prove indirectly fatal, owing to the person being in an unhealthy condition at the time of their infliction. In bad constitutions, compound fractures or slight wounds, which in a healthy person would have a favorable termination, are followed by gangrene, fever, or erysipelas, proving fatal. Here the responsibility of an assailant for the death may become reduced, so that, although found guilty of manslaughter, a mild punishment might be inflicted. The consequence may be, medically speaking, unusual or unexpected, and, but for circumstances wholly independent of the act of the accused, would not have been likely to destroy life. In general, in the absence of malice, this appears to be the point to which the law closely looks, in order to make out the responsibility of the accused—namely, that the fatal secondary cause must be something not unusual or unexpected as a consequence of this particular injury. The medico-legal question presents itself under this form: Would the same amount of injury have been likely to cause death in a person of ordinary health and vigor? Men who have suddenly changed their habits of living, and have passed from a full diet to abstemiousness, are sometimes unable to bear up against comparatively slight injuries, and often sink from the secondary consequences. So a man otherwise healthy laboring under rupture, may receive a blow

on the groin, attended with laceration of the intestine, gangrene, and death; another with a calculus in the kidney may be struck in the loins and die, in consequence of the calculus perforating the blood-vessels and causing fatal bleeding or subsequent inflammation.

It must be evident that there exist numerous internal diseases, such as aneurism, and various morbid affections of the heart and brain, which are liable to be rendered fatal by *slight* external violence. The law, as applied to these cases, is thus stated by Lord Hale: "It is sufficient to prove that the death of a person was accelerated by the malicious act of the prisoner, although the former labored under a mortal disease at the time of the act." (1, 428.) In those cases in which a slight degree of violence has been followed by fatal consequences, it is for a jury to decide, under all the circumstances, upon the actual and specific intention of the prisoner at the time of the act which occasioned death. According to Starkie, "it seems that in general, notwithstanding any facts which tend to excuse or alleviate the act of the prisoner, if it be proved that he was actuated by prepense and deliberate malice, and that the particular occasion and circumstances upon which he relies were sought for and taken advantage of merely with a view to qualify actual malice, in pursuance of a preconceived scheme of destruction, the offence will amount to murder." In most of these cases there is an absence of intention to destroy life, but the nature of the wound, as well as the means by which it was inflicted, will often suffice to develop the intention of the prisoner. An accurate description of the injury, if slight, may afford strong evidence in favor of the accused, since the law does not so much regard the means used by him to perpetrate the violence, as the actual intention to kill, or to do great bodily harm. Serious injury, causing death by secondary consequences, will admit of no exculpation when an assailant was aware, or ought to have been aware, of the condition of the person whom he struck. Thus, if a person notoriously ill, or a woman while pregnant, be maltreated, and death ensue from a secondary cause, the assailant will be held responsible; because he ought to have known that violence of any kind to persons so situated, must be attended with dangerous consequences. So, if the person maltreated be an infant or a decrepit old man, or one laboring under a mortal disease, it is notorious that a comparatively slight degree of violence will destroy life in these cases, and the prisoner would properly be held responsible. A wound which *accelerates* death *causes* death, and may therefore render the aggressor responsible for murder or manslaughter, according to the circumstances. The Commissioners appointed to define the criminal law on the subject of homicide thus express themselves: "Art. 3. It is homicide, although the effect of the injury *be merely to accelerate the death* of one laboring under some previous injury or infirmity, or although, if timely remedies or skilful treatment had been applied, death might have been prevented." This is conformable to the decisions of our judges. According to Lord Hale, if a man has a disease which in all likelihood would terminate his life in a short time, and another give him a

wound or hurt which hastens his death, this is such a killing as constitutes murder. (Archbold, p. 345.)

6. *Abnormal Conditions.*—When an assailant could not have been aware of the existence of a diseased or an abnormal condition of parts in the wounded person, the question is somewhat different. In many persons the skull is preternaturally thin, and in most persons it is so in those places corresponding to the glandulæ Pacchioni. In a case of this kind a moderate blow on the head might cause fracture, accompanied by effusion of blood, depression of bone, or subsequent inflammation of the brain and its membranes, any of which causes might prove fatal. In some persons, all the bones of the body are unusually *brittle*, so that they are fractured by the slightest force. Inflammation, gangrene, and death may follow, when no considerable violence has been used; but these being unexpected consequences, and depending on an abnormal condition of parts unknown to the prisoner, his responsibility may not, cæteris paribus, be so great as under other circumstances. This condition of the bones can be determined only by a medical practitioner. Facts of this kind show that the degree of violence used in an assault cannot always be measured by the effects, unless a careful examination of the injured part is previously made.

7. *Difficulty of Proof in Death from Secondary Causes.*—When a person is charged with having caused the death of another through violence terminating in some fatal disease, the case often admits of a skilful defence, and this in proportion to the length of time after the violence, at which the deceased dies. The disease, it may be urged, is liable to appear in all persons, even the most healthy; or it may arise from causes unconnected with the violence. In admitting these points, it must be remembered that death may be proved to have been indirectly a consequence of the wound by the facts: 1, that the supervention of the secondary cause, although not a common event, lay in the natural course of things; 2, that there did not exist any accidental circumstances which were likely to have given rise to this secondary cause independently of the wound. The proof of the first point amounts to nothing, unless the evidence on the second point is conclusive.

CHAPTER XXIX.

WOUNDS INDIRECTLY FATAL.—TETANUS FOLLOWING WOUNDS.—ERYSIPELAS.—DELIRIUM TREMENS.—GANGRENE.—DEATH FROM SURGICAL OPERATIONS.—PRIMARY AND SECONDARY CAUSES OF DEATH.—UNSKILFULNESS IN OPERATIONS.—PYÆMIA.—MEDICAL RESPONSIBILITY IN REFERENCE TO OPERATIONS.—ACTIONS FOR MALAPRAXIS.

Tetanus following Wounds.—Tetanus frequently presents itself as a secondary fatal consequence of wounds, especially of those which are

lacerated or contused, and affect nervous or tendinous structures. It has often occurred as a result of slight bruises or lacerations, when the injury was so superficial as to excite no alarm; and it is a disease which gives no warning of its appearance. Tetanus may come on spontaneously, *i. e.*, independently of the existence of any wound on the body. Cases have been brought into the London hospitals, in which the only cause of this disease appeared to be exposure to cold or wet, or, in some instances, exposure to a current of air. ("Lancet," Dec. 14, 1844, 351.) It is scarcely possible to distinguish, by the symptoms, tetanus from wounds (traumatic) from that which occurs spontaneously as a result of natural causes (idiopathic). In endeavoring to connect its appearance with a particular wound or personal injury, it will be proper to observe—1, whether there were any symptoms indicative of it before the maltreatment; 2, whether any probable cause could have intervened to produce it, between the time of its appearance and the time at which the violence was inflicted; 3, whether the deceased ever rallied from the effects of the violence. The time at which tetanus usually makes its appearance, when it is the result of a wound, is from the third to the sixth day; but it may not appear until three or four weeks after the injury, and the exciting cause may still be traced to the wound which may have healed. When resulting from a wound it is generally fatal.

A medical practitioner is bound to exercise great caution before he pronounces an opinion that a fatal attack of tetanus has arisen either from spontaneous causes, or from slight blows or personal injuries. A rigorous inquiry should be made into all the attendant circumstances. Slight punctured wounds, operating as a cause of tetanus, have been overlooked or only discovered by accident after death, and it is highly probable that many cases have been set down as idiopathic tetanus in which, by proper inquiry, the disease might have been traced to a wound or some personal injury. In one instance the tetanus was at first considered to be idiopathic; but shortly before death a small black mark was observed on the thumb nail. On making inquiry, it was found that a few days previously to the attack a splinter of wood had accidentally penetrated the thumb. The patient attached so little imprtance to the accident that he did not mention the circumstance to his medical attendant. This was no doubt the sole cause of the disease. Many trials for murder have occurred in this country in which tetanus was the immediate cause of death; and the defence has generally rested upon the probable origin of the disease from accidental causes.

Erysipelas, like tetanus, may be a fatal result of slight injuries. Wounds affecting the scalp are liable to be followed by this disease. Burns and scalds sometimes prove fatal through this secondary cause. Some constitutions are particularly prone to erysipelatous inflammation, and thus, wounds comparatively slight, may have a fatal termination. When a wounded person has died from this disease, an assailant cannot be made responsible for the fatal result, unless the erysipelas is clearly traced to the injury. The medical facts that the person assaulted has never recovered from the effects

of the violence, and that the inflammation set up has suddenly assumed as erysipelatous character, are sufficient to establish this connection. If there has been recovery, and an interval of some days has elapsed, a doubt may arise respecting the connection of the erysipelas with the violence inflicted. This disease is occasionally idiopathic, *i. e.*, it appears like tetanus without any assignable cause.

It is sometimes difficult to establish the connection of erysipelas with a wound, especially when the disease occurs after some time and in a remote part of the body, not implicated in the wound. When this connection cannot be distinctly made out, there will be an acquittal.

Delirium tremens is a disease which frequently presents itself as a secondary consequence of injuries to persons of intemperate habits. Whether the injury be slight or severe, this disease may equally supervene and prove fatal. It is observed occasionally as a consequence of operations required for the treatment of wounded persons. The remarks made at p. 266 upon the influence of unhealthy constitutions on wounds, apply with especial force to cases of this description.

Death from Surgical Operations.—In the treatment of wounds, surgical operations are frequently resorted to, and a wounded person may die either during the performance of an operation, or from its consequences. A question will thence arise, whether the person who inflicted the wound should be held responsible for the fatal result. The law regards a surgical operation as part of the treatment, and if undertaken bonâ fide, and performed with reasonable care and skill, the aggressor will be held responsible, whatever may be the result. The necessity for the operation, and the mode of performing it, will be left to the operator's judgment. As the defence may turn upon the operation having been performed unnecessarily, and in a bungling and unskilful manner, it will be right for a practitioner, if possible, to defer it until he has had the advice and assistance of other practitioners. According to Lord Hale, if death takes place from an *unskilful operation*, performed for the cure of a wound, and not from the wound, the responsibility of the prisoner ceases; but this eminent lawyer does not appear to have considered that death may take place as a consequence of the most skilful operation required for the treatment of a wound, and yet be wholly independent of the wound itself.

If the operation has been performed by the medical witness himself, and the necessity for its performance is questioned by counsel for the prisoner, it is open to the witness to give the requisite explanation in his evidence. It would appear from a recent case, tried before Shee J., that the necessity for an operation will *not* be assumed; but if called in question, it must be proved by witnesses for the prosecution. In *Reg.* v. *Moreland* (C. C. C., Sept. 20, 1865), the prisoner threw deceased on the ground and fractured his leg. The limb was amputated at the London Hospital, and the man subsequently died. Counsel for the prisoner asked the surgeon from the hospital who spoke to the death of the deceased whether an opera-

tion was necessary. The witness said he could not tell, as he had not charge of the case previous to the operation. Counsel then raised the question whether prisoner or the doctors had caused the man's death. The counsel for the prosecution suggested that the court might accept as a fact that amputation would not have been performed had it not been necessary: but the learned judge said that would not do. They must deal with the case on the evidence before them. He then observed to the jury that although undoubtedly amputation would not be adopted at such a place as the London Hospital without the necessity for it, yet evidence to that effect must be before them on oath. They could not act on what they had every reason to believe; therefore they must acquit the prisoner. The failure of justice in this case rested with those who were concerned for the prosecution. The operator, who could probably have satisfied the court that he had not cut off the wrong leg, and that there were good reasons for performing the operation, was not called as a witness: but in his place a gentleman was summoned who could not answer these necessary questions.

Death is by no means an unusual result of severe operations, the secondary consequences under which the patient may die being very numerous even when the case is most skilfully managed. Sometimes the patient will die on the table, although but little blood may have been lost. Fear, pain, and sudden shock to the nervous system, have caused death under these circumstances. The most common indirect causes of death after severe operations, are secondary hemorrhage, erysipelas, tetanus, delirium tremens, pyæmia, and hectic fever with gangrene of the stump. Mr. Travers observes, that, "a pre-existing disease of the liver, kidney, or testicles, though chronic, and in itself not alarming to the constitution, becomes a drag upon its elasticity, and stands in the way of recovery. Inspection of the body after death frequently explains the unfavorable result of operations that promise well, by discovering one or more organs in a state of chronic disease, which had not previously deranged the health in a degree sufficient to give notice of its existence; and which might, therefore, have remained quiet for years to come, had no extraordinary call been made upon the powers of the system." ("On Constitutional Irritation," p. 45, 121, et seq.)

Should an operation be unnecessarily or unskilfully performed, the responsibility of an aggressor would, it is presumed, cease, if the death of a wounded party should be clearly traced to it. Thus, if in carelessly bleeding a wounded person, the brachial artery should be laid open ("Ann. d'Hyg.," 1834, t. 2, p. 445), or if, in performing amputation, a large artery be improperly secured, so that the patient in either case dies from loss of blood, the prisoner could not be equitably held responsible; because it would be punishing him for an event depending on the unskilfulness of a medical practitioner. According to Platt B. a prisoner will be held responsible, if the original wound were likely to produce death, although unskilfully treated. Supposing the bleeding or amputation to be performed with ordinary care and skill—and yet, in the one case, inflammation

of the veins, and in the other erysipelas, tetanus, gangrene, or fever should destroy life, the prisoner will be liable for the consequences. The practice of the law is strictly consistent with justice. Should the operation be considered to be *absolutely* required for the treatment of a wound, which, according to all probability, would prove mortal without it—should it be performed with ordinary skill, and still death ensue as a direct or indirect consequence, it is only just that the person who inflicted the injury should be held responsible for the result. It is presumed in these cases, that were the patient left to himself, he would, in all probability, die from the effects of the wound. If, therefore, a surgeon, knowing that an operation would give a chance of saving life on such an occasion, did not perform it, it might be contended in the defence, that the deceased had died, not from the wound, but from the incompetency and neglect of his medical attendant. Hence it follows that if, during this necessary treatment, unforeseen though not unusual causes cut short life, no exculpation should be admitted, if it went to attack the best-directed efforts made for the preservation of life. (See "Ann. d'Hyg." 1835, t. 1, p. 231.) If an operation is rendered necessary by reason of the improper treatment of the wound, the responsibility of an assailant for a fatal result ceases.

In a large number of operations it is now the general practice among surgeons to administer *chloroform vapor*, not only to allay pain but to prevent that exhaustion to the patient which is likely to arise from protracted surgical proceedings. In spite of care on the part of the operator, this vapor is liable to destroy life in an unexpected manner, and the patient may die either before the operation is commenced or during its performance. The facts may leave no doubt that the wounded person died from chloroform, and not from the wound or the operation. On inspection of the body, the heart may be found in an unhealthy state, a fact which is usually considered sufficient to account for the fatal effects of chloroform vapor. In a case of this kind—What becomes of the responsibility of the person who inflicted the original wound? No decision, so far as I know, has ever been given on this point. Was the use of chloroform vapor in a professional view a *necessary* part of the treatment? Was it skilfully and *properly* administered? Could the diseased condition of the heart which rendered the effects of the vapor more fatal than usual have been detected by the operator, so as to show the impropriety of administering it in this case? These questions should receive satisfactory answers before the aggressor is rendered responsible for death under such peculiar circumstances.

By an operation being *absolutely required*, are we to understand that it is necessary to preserve life, *i. e.*, that the wound will probably prove fatal without it? Bleeding and cupping may be necessary as part of the treatment of a wounded person; but unless it could be sworn that this treatment was required, in the judgment of the surgeon, for the *preservation of life* from the injury inflicted, it is doubtful whether, in the event of death occurring from these simple operations, the assailant would be held responsible for the fatal re-

sult. From cases hitherto decided, it would appear that the law regards three circumstances in death following surgical operations: 1st, the necessity of the operation itself; 2d, the competency of the operator; and 3d, the fact that the wound would be likely to prove mortal without it.

Operations Under a Mistaken Opinion.—It may happen that the wound is not of a mortal nature, and that, although an operation was skilfully performed, it was *not* necessary to save life; in other words, the wounded person may die from the immediate results of a serious operation, performed under a mistaken view of the case. It is well known to surgeons that a cancerous tumor has been occasionally mistaken for aneurism, an artery has been secured, and death has followed.

Let us assume that a man laboring under a slight aneurismal dilatation of a large artery receives a blow on the part; the tumor gradually increases, and is mistaken for an abscess by three or four surgeons, whose professional standing would permit their general competency from being questioned. Under a wrong diagnosis, it is opened, and the patient dies on the spot; in such a case it would be unjust to make the aggressor liable; for, even admitting that the aneurism resulted from the blow, and that a competent surgeon acted with bona fides, the treatment would be unskilful, and the case would fall under the rule laid down by Lord Hale (ante, p. 270). The real facts, however, may not transpire until after the death of the wounded person; and it may then be alleged by a prisoner's counsel that the operation was not necessary to save life, and that the wounded man might have recovered without it. From the ruling of our judges on various occasions in which this question has arisen, it would appear that the relative degree of skill possessed by medical men is not a question for a jury in a criminal case; although in a civil case, as in an action for malapraxis, the whole of the medical facts are invariably submitted to their judgment. This difference can only be justified by the assumption, that a man who inflicts a wound must take all the consequences, good or bad. No operation would have been required, but for the injury, and the prisoner ought not to escape on account of want of skill in a surgeon, or of a mistake made by a skilful operator. It was decided in the cases of *Rex* v. *Quain* and *Reg.* v. *Pym*, that although the indictment alleged that the deceased died of the wound, while in fact he died from the results of an operation, yet it was good in point of law.

When a wounded person is taken to an hospital in which gangrene or erysipelas is diffusing itself by infectious propagation, and he is attacked by one of these diseases before or after the performance of an operation, and dies, a prisoner may be held responsible for the fatal result. It might be contended that the transportation of the wounded man to such a locality was not absolutely necessary for his treatment or for the preservation of his life, and that he would not have died, but for the accidental presence of an infectious disease. Cases of this kind cannot be easily determined by any general rules.

Pyæmia.—In addition to erysipelas and tetanus, there is another

cause of death which is liable to follow personal injuries and operations, namely, *pyæmia*, or the introduction of pus into the blood by absorption or by the mouths of divided bloodvessels. The purulent matter appears to act as a poison, and one of its marked effects is to coagulate the blood either in the large vessels or in the capillaries. According to Dr. Wilks's observations, pyæmia is seldom observed after superficial injuries during the process of healing, or after wounds resulting from simple operations, but it occurs frequently when a bone is involved either in the injury or as the result of an operation. Inflammation of the cellular membrane surrounding bone is a condition highly favorable to its occurrence. It has been stated that the cause of death in one-half of the cases of amputation is pyæmia. (See a paper on this subject by Dr. Wilks, "Guy's Hospital Reports," 1861, p. 119.) The medical witness must remember that pyæmia, like tetanus and erysipelas, may arise from causes totally irrespective of wounds or personal injuries. (Cases by Dr. Habershon, "Guy's Hospital Reports," 1859, p. 179.)

Questions relative to responsibility in death following operations would come more frequently before courts of law, were it not that the cases are stopped in the Coroners' courts by verdicts of accidental death. (See "Med. Gaz.," vol. 19, p. 157.) It unfortunately happens that on these occasions there is great difference of opinion among medical witnesses respecting the connection of the disease with the death, and, indeed, the necessity for the operation itself. The evidence of opinion in favor of the prosecution is sometimes exactly balanced by that urged in the defence, and under these circumstances, the only course open to the court is to direct an acquittal. Differences of opinion upon these subjects among members of the profession tend to convey to the public, the impression that there are no fixed principles upon which medical opinions are based, and, consequently, that it would be dangerous to act upon them. Thus it is that we are accustomed to hear of a medical prosecution and a medical defence, as if the whole duty of a medical jurist consisted in his making the best of a case, on the side for which he happens to be engaged—adopting the legal rule for suppressing those points which are against him, and giving an undue prominence to others which may be in his favor. This is an unfortunate condition of things, for which at present there appears to be no other remedy than that of appointing a Medical Board of competent persons to act as assessors to the learned judge, to whom such questions should be referred, in the same manner as questions relative to navigation are referred by the Admiralty Court to a Board formed of members of the Trinity House—professionally acquainted with the matters in dispute.

Medical Responsibility in Operations. Malapraxis.—This is a very wide subject, but it can here be only glanced at in a few of its leading features. It was held by Lord Ellenborough, that if a person acting in a medical capacity be guilty of misconduct arising either from gross ignorance or criminal inattention, by which a patient dies, he is guilty of manslaughter. Faults, such as omissions, or

errors in judgment, to which all are liable, are not visited with this amount of criminality. The same rule applies to the licensed as to the unlicensed practitioner; but it would appear, from the charge of Williams J. (Winchester Spring Ass. 1847), that a degree of unskilfulness which might lead to the conviction of a licensed, would justify the acquittal of an unlicensed person. This was in the case of a midwife, aged 72, alleged to have caused the death of a woman on whom she had been called to attend. "The charge," said the learned judge, "appeared to be that by want of skill or attention to her duties, she had caused the death of the woman upon whom she was attending. In order to constitute this offence, it must be shown that the party was guilty of criminal misconduct, either arising from gross ignorance, or want of skill, or gross inattention. With respect to the degree of want of skill, he must say, that it was not to be expected that a midwife, who was called in to attend a person in the humble class of the deceased, a soldier's wife, should exhibit what a regular medical practitioner would call competent skill. It was enough if she applied that humble skill which, in ordinary cases, would lead to a safe delivery. She was *not* bound to have skill sufficient to meet peculiar and extraordinary exigencies, although in the case of a regular medical man, such skill might be required. The class of this humble practitioner was absolutely necessary for the poorer classes, and, although on the one hand it was fit the law should protect a patient, by punishment for gross want of skill, yet he thought there would be much to be lamented if it was applied with such severity as to render a party not possessing skill of this kind liable to punishment for manslaughter!"

Charges of manslaughter have frequently been brought against medical practitioners in cases of midwifery. In some instances gross mismanagement has been proved; the uterus, and even parts of the viscera, have been torn away, and in such cases convictions have very properly followed. It is well known, however, that much difference of opinion exists among the most eminent practitioners of midwifery respecting the treatment to be pursued in certain cases of difficulty, as where the after-birth presents (placenta prævia). There are eminent accoucheurs who advise in this case entirely opposite modes of practice, and who look upon that pursued by the other as of the most dangerous kind.

When death is not a result of medical treatment, an action for damages may be brought against the practitioner for *malapraxis*. From the evidence given on some of these occasions, it appears that an action of this kind is occasionally resorted to as a very convenient way of settling a long account.

It has been a question whether slight deviations from the ordinary mode of performing operations should involve a practitioner in a charge of malapraxis. I am not aware that this question has been raised in England; but a remarkable instance occurred in the United States a few years since, in which an action was brought and damages were recovered against a medical man for alleged negligence in vaccinating a young woman (case of *H. L. Landon*). Some inflam-

mation of the skin followed the operation, which, it was alleged, was performed nearer to the elbow-joint than was usual. The plaintiff soon recovered from the effects. The most singular feature of this case was the ruling of the judge: he said—"In performing the operation of vaccination or inoculation, the physician is liable for all consequences if he neglects the usual precautions, or fails to insert the virus in that part of the arm *usually selected* for the purpose; notwithstanding many other parts of the body might be proved to be equally proper and even more suitable locations!" If this be law, it is a very singular specimen of transatlantic jurisprudence. It might as well be ruled that legs should always be amputated at the same spot; and in case of neglect of this rule, that the operator should be made responsible for the result!

When on these occasions there is a division of opinion among men of equal experience respecting the necessity for an operation or the proper performance of it, a practitioner who is made defendant has a right to expect that a verdict will be returned in his favor; since it is not to be supposed that in order to recover payment for a bill, or to answer a charge of unskilfulness, a man's practice should receive the unanimous approval of the *whole* of his professional brethren, especially in cases in which there is an acknowledged difference of opinion respecting the treatment. On this showing, a man would never be able to recover his charges for the treatment of a case of severe burn or scald; since some practitioners consider it malapraxis to adopt the stimulating, while others equally regard it as malapraxis to adopt the cooling plan of treatment! All that appears to be expected is a reasonable accordance in treatment with received professional doctrines.

CHAPTER XXX.

WOUNDS OF THE HEAD.—CONCUSSION.—HOW DISTINGUISHED FROM INTOXICATION.—EFFUSION OF BLOOD AS A RESULT OF VIOLENCE, DISEASE, OR MENTAL EXCITEMENT.—WOUNDS OF THE FACE.—DEFORMITY AS A CONSEQUENCE OF WOUNDS OF THE FACE.—INJURIES TO THE SPINE AND SPINAL MARROW.—FRACTURES OF THE VERTEBRÆ.

THE *danger* of wounds, and their *influence in causing death*, are the two principal points to which the attention of a medical jurist must be directed.

WOUNDS OF THE HEAD.

Incised wounds, affecting the scalp, unless of great extent, rarely produce any serious effects. When the wound is contused or accompanied by much laceration of the skin, it is highly dangerous in

consequence of the tendency which the inflammatory process has to assume an erysipelatous character. The results of these wounds are, however, such as to set all general rules of prognosis at defiance. Slight punctured wounds will sometimes terminate fatally in consequence of inflammation, followed by extensive suppuration; while, on the other hand, a man may recover from a lacerated wound by which the greater part of the skin may have been stripped from the bone. There are two sources of danger in *wounds of the scalp:* 1. The access of erysipelatous inflammation. 2. Inflammation of the tendinous structures, followed or not by a process of suppuration. Either of these secondary effects may be a consequence of slight or severe wounds and prove fatal. Neither can be regarded as an unusual result of a severe wound of the scalp, but when one or the other follows a slight injury, there is reason to suspect that the patient may have been constitutionally predisposed to the attack. Bad treatment may likewise lead to a fatal result from a wound not serious in the first instance, but the question—how far the responsibility of an aggressor would be affected by a circumstance of this nature has been considered in another place (ante, p. 264). Wounds of the head are dangerous in proportion as they affect the brain; and it is rare that a severe contused wound is unaccompanied by some injury to this organ. There is, however, a difficulty which a practitioner has here to contend with—namely, that it is scarcely possible to predict from *external* appearances, the degree of mischief which has been produced within. These injuries, as it is well known, are capricious in their after-effects—the slightest contusions may be attended with fatal consequences, while fractures, accompanied by great depression of bone, and an absolute loss of substance of the brain, are sometimes followed by perfect recovery. Another difficulty in the way of forming a correct opinion consists in the fact, that a person may recover from the first effects of an injury, but after some days or weeks he will suddenly die; and on examination of the body, the greater part of the brain will be found destroyed by suppuration, although no symptoms of mischief may have manifested themselves until within a few hours of death.

Concussion.—The common effect of a violent blow on the head is to produce concussion or effusion of blood, or both. Concussion is usually indicated by fainting, insensibility, or sudden death occurring immediately after the application of external violence. In concussion the symptoms come on *at once*, and the patient sometimes dies without any tendency to reaction manifesting itself. In the most severe form, the person drops at the very moment when struck and dies on the spot. (Chelius's "Surgery," vol. 1, p. 408.) In other cases, he may linger in a state of insensibility for several days or weeks and then die. In concussion there is generally more or less vomiting. It is important to remember that neither compression nor physical injury to the brain is necessary to render concussion fatal. This may be entirely dependent on shock to the nervous system. After death, no particular morbid change may be discovered in the body, or there may be merely the mark of a slight bruise on

the head. The state of insensibility observed in concussion may be only apparent: some consciousness may be retained.

Inflammation may follow the primary shock from concussion—suppuration may take place, and the patient die after the lapse of several weeks, or even months. It is necessary in a medico-legal point of view to notice that a person may move about and occupy himself, while apparently convalescent, for a week or ten days after recovery from the first shock, and then suddenly be seized with fatal symptoms, and die. This apparent recovery leads to the common supposition, that death must have been produced by some intervening cause, and not by the original violence to the head, a point generally urged in the defence of such cases. When the inflammation that follows concussion is of a chronic character, the person may suffer from pain in the head and vomiting, and die after the lapse of weeks, months, or even years. Concussion may sometimes take place as a consequence of a violent fall on the feet, in which case the head receives a shock through the medium of the spinal column. The skull may be thereby extensively fractured at the base, and the brain may be even shattered by such a fall. This was the cause of death in the case of the *Duke of Orleans*. ("Med. Gaz.," vol. 36, p. 368.)

Concussion Distinguished from Intoxication.—The symptoms under which a wounded person is laboring may be sometimes attributed to *intoxication*, and a medical witness may be asked what difference exists between this state and that of concussion. The history of the case will, in general, suffice to establish a distinction, but this cannot always be obtained. It is commonly said that the odor of the breath will enable a surgeon to detect intoxication; but it is obvious that a man may meet with concussion after having drunk liquor insufficient to cause intoxication, or concussion may take place while he is intoxicated—a combination which frequently occurs. Under such circumstances we must wait for time to develop the real nature of the case. Concussion may be so slight as sometimes closely to resemble intoxication, and from the absence of all marks of violence to the head and the existence of a spirituous odor in the breath, the medical examiner might be easily deceived. If there be no perceptible odor in the breath, the presumption is that the symptoms are *not* due to intoxication. On the other hand, intoxication may be so great as to give rise to the apprehension of fatal consequences, and the coexistence of a mark of violence on the head might lead to error in the formation of an opinion. What is the line of conduct to be pursued on such occasions? The examiner should weigh all the circumstances, and if there be one cause for the symptoms more probable than another, he should adopt it: if there be any doubt, this should be stated to the court.

There is nothing in the state of the brain in a dead body, which will enable a practitioner to distinguish whether concussion or intoxication had existed and had been the cause of the symptoms. The vessels may be congested in both cases. The discovery of an alcoholic liquid in the stomach might lead to a presumption that deceased

had been intoxicated, while marks of violence on the head might favor the view that he had suffered from concussion. When both conditions are found, the examination of the body cannot lead to a solution of the question. The answer must then depend on the special circumstances proved, and, if procurable, on the nature of the symptoms preceding death. It is to be feared that medical witnesses are not sufficiently careful, on these occasions, to determine whether there are signs of intoxication about an injured person. Subsequent proceedings may render this a material part of the inquiry.

Extravasation or Effusion of Blood.—A blow on the head may destroy life by causing an effusion of blood either on the surface or in the substance of the brain. In pugilistic combats, when a person is thus struck, he commonly falls, and death may take place in a few minutes. On inspection, blood may be found effused either at the base or in the ventricles of the brain, and the question will present itself—Did the injury which caused death arise from *a blow or a fall?* (See page 218.) A heavy blow on the head may cause fatal effusion of blood, but on these occasions the effusion commonly arises from the violent concussion which the injured person sustains by the fall. A medical witness will therefore in general be compelled to admit that the fatal effusion might have taken place either from a blow or a fall. If the fall has resulted from accident and not from a blow, this will, of course, absolve the accused from responsibility for the fatal results. This subject has important applications in legal medicine, for this is one of the most common causes of death from injuries to the head, and there are generally many cases of this description tried at the assizes. Effusion may occur from violence, with or without fracture, and it may take place without being accompanied by any external marks of injury.

In cases of injuries to the head proving fatal by *effusion* of blood on the brain, a person may recover from the first effects of the violence, and apparently be going on well, when he will suddenly become worse and die. Effusion takes place slowly at first—it may be arrested by the effects of stupor from concussion, by a portion of the blood coagulating around the ruptured orifices of the vessels, or by some other mechanical impediment to its escape; but after a longer or shorter period, especially if the person be excited or disturbed, the bleeding will recur and destroy life by producing compression of the brain. How many hours or days are required in order that such an increased effusion should take place after an accident, it is impossible to say; but in severe cases, it is generally observed to follow the injury within a short time. Sir Astley Cooper has related the case of a gentleman who was thrown out of a chaise, and fell upon his head with such violence as to stun him in the first instance. After a short time he recovered his senses, and felt so much better, that he entered the chaise again, and was driven to his father's house by a companion. He attempted to pass off the accident as of a trivial nature, but he soon began to feel heavy and drowsy, so that he was obliged to go to bed. His symptoms became more alarming, and he died in about an hour, as it afterwards ap-

peared, from effusion of blood on the brain. When the brain has sustained laceration from violence, in addition to insensibility, convulsions are frequently observed.

Effusion of Blood from Disease or Violence.—Blood may be found effused in various situations within the interior of the skull; and the cause of the effusion may be either disease or violence. The skill of a medical jurist is often required to determine which of these causes is the more probable, as where, for instance, a pugilist has died, after having received severe injuries to the head, and his adversary is tried on a charge of manslaughter. On these occasions it is often urged in the defence, that the bleeding might have arisen either from a diseased state of the vessels of the brain, or, if the evidence render it probable that the blow was the cause; that the effects of the blow were aggravated by a diseased condition of the vessels, or by the excitement into which the deceased was thrown, either from the effects of intoxication or passion. When the brain is not lacerated by violence, the blood is effused either on the surface of the hemispheres, between the membranes, or at the base. When the effusion is caused by violence, the effused blood is not always found under the spot where the blow was inflicted, but occasionally, by counter-stroke on the surface of the brain, directly opposite to it; a case which a medical witness has frequently been required to explain on trials, and which depends on the same cause as fracture by counter-stroke, *i. e.* on a separation of parts (laceration of the brain, effusion of blood, or even fracture of the bones) at the point of the skull directly opposite to that which sustains the violence. Thus, fracture of the base of the skull is frequently the result of severe violence applied to the top of the head (vertex). Effusions of blood from a diseased state of the vessels more commonly take place in the substance of the brain, but they sometimes occur on the surface of the organ as a result of mere excitement or over-exertion of the muscular powers. A diseased condition of the vessels, and probably a softening of the substance of the brain, will on these occasions be apparent on inspection.

If the effusion depend on *disease*, the arteries around may be found in a diseased condition, or the brain itself may be found softened and disorganized. The state of the brain and its vessels should be closely examined in all cases of alleged violence, since hemorrhage may take place either from excitement or slight blows, whenever this diseased condition exists. It has occasionally happened, especially in old persons, that the person has dropped down dead without a blow being struck, and that death has been wrongly imputed to violence. Cerebral hemorrhage from disease rarely occurs in persons under forty years of age. Frequent intemperance and violent passion may, however, easily create a tendency to it in younger persons. As an effect of violence it may take place in persons of all ages, but when the marks of violence are slight, a witness must exercise great caution before he alleges that the effusion was produced by a blow, especially when it is found that the deceased was of intemperate habits.

Another condition besides intoxication and passion has been said to favor a rupture of vessels and an effusion of blood on the brain—namely, a thickened state of the substance of the left ventricle of the heart. According to some pathologists, this morbid condition favors the occurrence of cerebral hemorrhage by the force with which the ventricle propels the blood to the brain. Unless the brain is softened and the vessels are diseased, it is, however, doubtful whether this condition of the heart would have much influence.

As a summary of these remarks, we may say that in effusions of blood from violence, the blood generally issues from a vessel which is plainly seen to be torn, as the middle artery of the brain or the lateral sinus. The effused blood is commonly found on the surface of the brain, and not in its substance, unless the organ be lacerated. When situated between the dura mater (outer membrane) and the skull, but especially when immediately below the seat of violence or directly opposite to it by counter-stroke, this is strong evidence, cæteris paribus, that it has proceeded from a blow. When there is a fracture of the skull, the presumption of the extravasation being due to violence is great; because this is not only a sufficient, but an obvious cause, while the idea of its having proceeded from disease only is remote and speculative. When, besides these conditions, there is no remarkable congestion of the brain in other spots, when the substance of the brain is firm, and the vessels are to all appearance free from disease, we have the strongest reason to believe that the effusion must have been due to violence, and to no other cause whatever.

The evidence given on some trials, when the main question has turned upon the *cause* of an effusion of blood on the brain, in the case of a person who has sustained violent injuries to the head, has rather tended to reflect disgrace on medical science. It has been made to appear from the mouth of the medical witness, either directly or by implication, that no sort of mechanical violence applied to the head of a man in a state of drunkenness or passion—of one whose cerebral vessels were probably diseased—or the substance of whose heart might be thickened—could have had any effect in producing a fatal extravasation found in the head after death! In spite of an individual having received a violent blow with a bludgeon, sufficient to have killed a stout and vigorous man, or of his having been thrown with considerable force with his head against a stone-floor, an unqualified admission is often made, that excitement alone, or drunkenness alone, would account for the effusion without reference to the blow! In putting the most favorable construction upon these cases, when we have clear evidence of great violence having been used to the head, with the presence of the usual post-mortem appearances, our opinion should be that the excitement or drunkenness might have predisposed to, but was not the immediate cause of, the cerebral hemorrhage. There seems to be no good reason for assuming that apoplexy from natural causes always occurs by a peculiar coincidence, just at the time that a person receives a violent blow with a bludgeon on the head, or for giving to the assailant the benefit of

this hypothetical explanation. A mere inspection of the body does not always lead to the discovery of the cause of an effusion on the brain. The violence causing an effusion of blood may have been slight, and unless attention is particularly directed to the subject, it may be overlooked. The condition of the effused blood should be accurately noticed, in order to determine whether it presents any marks indicative of its being recent or of old standing.

Spontaneous effusions or effusions from disease are not easily distinguished from those which are the result of violence to the head. Dr. Wilks has pointed out that in most instances of *severe* injury attended with effusion of blood, the structure of the brain is found bruised. In meningeal apoplexy (apoplexy of the membranes) the source of the blood is a vein of the pia mater or inner membrane, and sometimes a large arterial trunk. The difficulty chiefly arises in those cases in which effusion is found after slight violence and there is, at the same time, disease of the bloodvessels of the brain. Dr. Wilks gives the result of several inspections in which effusion was owing to disease, to violence, and to a mixed condition. (See "Guy's Hospital Reports," 1859, p. 120.)

Effusion of Blood from Excitement.—When engaged in the investigation of these cases, it is always a fair matter of inquiry whether the *violence*, upon the evidence, was not of itself sufficiently great to account for the effusion without the supposition of coexisting disease or excitement. Admitting that the rupture of a bloodvessel, and the extensive effusion of blood on the brain, may take place from simple excitement and passion, yet this is an event comparatively rare, at least in the young and healthy, while nothing is more common than that these results should follow violent injuries to the head whatever the age or condition of the person. A medical witness should remember that on these occasions, if he is unable to say positively whether the effusion was due to the excitement or the blows, he will satisfy the court if he only state clearly that which is, in his own mind, the more probable cause of death; and by weighing all the circumstances of the case beforehand, he will rarely fail to find that one cause was more probable than the other. Thus, if a man, excited by passion and intoxication, is struck on the head, and the blow is slight—such as an unaffected person would probably have sustained without injury—yet in this case insensibility and death follow, and, on examination, a quantity of blood is found effused in the substance of the brain, can it be a matter of doubt with the practitioner that the effusion was chiefly due to the excitement under which the deceased was laboring? To take a converse instance: a man engaged in a personal conflict with another, is struck most violently on the head, or falls with great force on this part of his body; on inspection it is found that death has arisen from effusion of blood on the surface of the brain, and it would be no unexpected consequence of the violence inflicted, that a similar appearance should be met with in an individual calm and unexcited. Can the practitioner hesitate to say, under these circumstances, that the blow would satisfactorily account for the effusion, without reference to any coexisting

causes of excitement? These may be allowed to have their influence in giving an increased tendency to cerebral hemorrhage, or in aggravating the consequences of the blow, but no further.

In these criminal investigations, when a witness is examined in chief, he asserts, perhaps, that the effusion of blood was owing to a blow inflicted on the head. The counsel who cross-examines him, then puts the leading question, whether vessels may not be ruptured by excitement; he answers, without any qualification, in the affirmative, and thus produces an impression on the minds of the jury that excitement may have caused the rupture of the vessel in the particular case on which he is being examined. This is, of course, the sort of answer which a prisoner's counsel wishes to extract from a witness; and the effect produced by it on the court is not always removed, even by a careful re-examination. The counsel for the defence is well aware that in a case of this description, his only chance of obtaining an acquittal is to throw a degree of doubt on the medical evidence, and to render it probable to a jury that the death of the deceased party was due to some other cause than the blow inflicted by the prisoner. As leading questions are allowed to be put to any extent in a cross-examination, the answer in the monosyllable "yes" or "no," generally carries with it much more than the medical witness intends. It may be very proper that a skilful barrister should exercise his talents in this way, but a medical witness has to remember that he is sworn to state the *whole* truth. A qualified answer should be given to what is really a general question; and, supposing his opinion to be already formed on the subject on which his evidence is required, he should not, unless it be strictly consistent with his own views, allow his answer to a *general* question to be made applicable to a *particular* case. If then asked, in cross-examination, whether a vessel might not be ruptured and blood extravasated by mere *excitement*, he should answer that such an effect might undoubtedly follow; but that it was his opinion —and I am here supposing that his opinion has been found upon a deliberate examination of all the *medical* facts—that excitement was *not* the cause of rupture and extravasation in the case in question. A witness has, it appears to me, a right to insist that his evidence shall pass to the jury without having any designed ambiguity attached to it. It may be said that the remedy for an evil of this kind is the re-examination of the witness; but I am satisfied from the reports of many cases before me, that the point is overlooked. Besides one cannot understand why a piece of sophistry and equivocation is to be left to a chance exposure; the case would then rest not upon sound medical evidence, but upon the relative degree of ingenuity and ability displayed by the counsel for the prosecution and defence.

Date of Effusions.—Recent effusions of blood are recognized by their red color, and the consistency and appearance of the clot or coagulum. After some days the clots acquire a chocolate or brown color, and this passes gradually into an ochreous tint, which may be met with in from twelve to twenty-five days after the violence (see

cases by Dr. Wilks, p. 265). Coagula of effused blood also undergo changes in structure and consistency; when old they are firmer, and there is much lymph, which is sometimes disposed in membranous layers of a fibrous structure, and these are adherent to the dura mater and the brain. The surface of this organ sometimes presents a mark indicative of pressure.

When a medical man is required to give an opinion of the *date* of an effusion found on the brain, great caution is required. A surgeon may not be able to fix the precise date, but it may be in his power to say whether the blood has been effused for a few days, weeks, or months.

When a blow on the head is of a heavy, bruising kind, the whole substance of the skull may be fractured without a division of the skin. There is one remarkable circumstance connected with fractures accompanied by depression of bone, which here requires to be mentioned—namely, that the person has been sensible so long as the foreign substance which produced the fracture and depression remained wedged in the brain, and that insensibility and other fatal symptoms began to manifest themselves only after its removal. This being admitted, it may be urged in defence, that death was really caused by medical interference. But it is a sufficient answer to state, that the wounded person must have died from inflammation of the brain if the foreign body had been allowed to remain: and that it is consistent with the soundest principles of practice to remove all such foreign substances without delay. In fractures of the skull, with depression, it may become a question whether the surgeon raised the depressed portion of bone so soon as he ought to have done.

In reference to persons found dead with severe injuries to the head attended with fracture and effusion of blood on the brain, a medical man may be required to say whether such an amount of violence is or is not consistent with the retention of muscular exertion, and power of locomotion by the deceased. For instance, a man may fall from a height, and produce a severe compound fracture of the skull. He may, nevertheless, be able to rise and walk some distance before he falls dead. Under these circumstances there might be a strong disposition to assert that the deceased must have been murdered—the injuries being such that they could not have been produced by himself, there being at the same time no weapon near, and no elevated spot from which he could have fallen. The discovery, after death, of severe injury to the head, with great effusion of blood on the brain, must not, however, lead a surgeon to suppose that the person who sustained the violence had been *immediately* incapacitated. There are various cases recorded which show that a power to move has been retained under conditions which might be supposed to render a person incapable of moving from the spot. Full allowance must be made on those occasions for the possible exercise of locomotion by the deceased. Although a large quantity of blood may be found after death pressing on the substance

of the brain, it does not follow that this effusion and pressure were the immediate result of the violence.

Wounds of the Brain.—Wounds of the brain sometimes prove instantaneously mortal, even when slight, while in other cases, recoveries take place from contused or punctured wounds of this organ, contrary to all expectation. When a person survives the first effects of the injury, there are two sources of danger which await him: 1. The production of fungus from the exposed portion of the brain; and 2. Inflammation and its consequences. The process of inflammation, it must be remembered, is very slowly established in this organ; it may not manifest itself until from three to ten weeks after the injury. In one remarkable case, where a child was accidentally shot through the brain, the ball having traversed both hemispheres, no symptoms of cerebral inflammation manifested themselves for twenty-six days. The child died on the twenty-ninth day. ("Med. Gaz." vol. 39, p. 41.)

Wounds of the Face.—When wounds of the face are of any extent they are usually followed by great deformity; and when they penetrate the cavities in which the organs of the senses are situated, they often prove fatal, either by involving the brain and its membranes, or by giving rise to inflammation of this organ. Wounds of the eyebrows are not of so simple a nature as might at first sight be supposed. Besides being attended by deformity when they heal, they are liable to cause during the process of healing, serious disorders of the neighboring parts. Amaurosis and neuralgia are recorded among the secondary and not unusual consequences of such wounds, when the supra-orbitar nerve has become implicated. Under certain conditions of the body, there may be inflammation of the parts within the orbit, extending by contiguity to the membranes of the brain, and proving fatal by leading to the formation of matter within that organ. Amaurosis in the right eye has been known to occur from a contused wound, not of a violent nature, on the right eyebrow. Wounds apparently confined to the external parts of the face frequently conceal deep-seated mischief. A sharp instrument penetrating the eyelid, and passing upwards with any force, will produce fracture of the orbitar plate of the frontal bone, which is known to be extremely thin, and even injure the brain beyond.

Deformity as a Consequence of Wounds of the Face.—Wounds of the face when at all extensive, are always followed, in healing, by greater or less *deformity.* A medical witness may, perhaps, find these questions put to him in relation to them: Is the wound likely to be attended with deformity? Could such a wound of the face heal without deformity? or, Could the deformity, if it exist, have been produced by any other cause than the wound? These questions are of some importance. A person may allege that he was severely wounded in the face, when the medical witness, on examination, may find no trace of such a wound as that described. Again, a person may seek damages from another in a civil action, by alleging that a particular deformity was produced by a wound, when the

medical witness may be able to trace its origin to disease, or to some accidental cause.

Injuries to the Spine.

Injuries to the spine and spinal marrow seldom require medico-legal investigation; but this organ is liable to *concussion* from blows, to compression from fracture of the vertebræ or the effusion of blood, with all the secondary consequences attending such accidents. Concussion of the spinal marrow commonly produces paralysis, affecting the bladder, rectum, or lower limbs. These symptoms may not appear at once, but come on after some hours or days. After death no traces of mechanical injury may be discovered. Blows on the spine, unattended with fracture or dislocation, may, according to the observation of Sir B. Brodie, be followed by inflammation and softening of the spinal marrow. A slight injury has thus been known to cause death, by giving rise to inflammation of the spinal marrow. This organ is also liable to compression from slight causes, and death may occur from paralysis of the nerves of respiration.

Fractures of the Vertebræ.—These fractures are generally attended by displacement, and thus produce compression of the spinal marrow. They are the more rapidly fatal, in proportion as the injury is high up in the vertebral column. The whole of the body becomes paralyzed below the seat of injury, by the compression of the spinal marrow. If the seat of compression is above the fourth cervical vertebra, death is commonly immediate: asphyxia results from paralysis of the nerves which supply the diaphragm, and which are necessary to respiration. In falls on the summit of the head from a height, it sometimes happens, not only that the skull is extensively fractured, but that the dentiform process of the second vertebra is broken off, owing to the head being doubled under the body. This injury to the second vertebra may be the cause of death. From a case related by the late Mr. Phillips, it would appear that this accident is not always attended by fatal compression of the spinal marrow. ("Ed. M. & S. J." Jan. 1838.) In one instance the person survived fifteen months (ib. Oct. 1845, p. 527); and in another, in which the fracture was caused by the patient turning in bed while his head was pressed on the pillow, death did not take place for *sixteen* months. (Copland, "Dict. Pr. Med.," Paralysis.) On several criminal trials, this injury was proved to have been the cause of death: and in a case tried at Glasgow (the *King* against *Reid*, p. 27), it became a material question, how far such a fracture might result from disease. It may happen that caries of the bone, or disease of the transverse ligament will cause a separation of the dentiform process from the second cervical vertebra. The state of the bone in these alleged fatal accidents should, therefore, be closely examined. In fractures of the vertebræ, a person is generally so disabled, whatever may be the situation of the fracture, that he cannot walk or exert himself.

Injuries to the spine and its contents are generally the result of falls or blows, either on the head or the lower part of the column.

The secondary consequences of these injuries are sometimes so insidious as to disarm suspicion, and death may take place quite unexpectedly some weeks after the accident. Spicula of bone, separated by fractures, may remain adherent for some time; and, by a sudden turn of the head, be forced off, and destroy life by penetrating the spinal marrow, at a long period after the infliction of the injury. This has been known to happen in fractures involving the margin of the foramen magnum, and in such cases death is immediate. The *spinal marrow* has been in some instances wounded in its upper part by sharp-pointed instruments introduced between the vertebræ. Death is an instantaneous result when the wound is above the third cervical vertebra: there is no part of the spine where a weapon can so easily penetrate as this, especially if the neck be slightly bent forward. The external wound thus made may be very small, and if produced with any obliquity by drawing aside the integuments, it might be easily overlooked, or it might be set down as superficial.

CHAPTER XXXI.

WOUNDS OF THE CHEST.—WOUNDS AND RUPTURES OF THE LUNGS AND HEART.—WOUNDS OF LARGE BLOODVESSELS.—WOUNDS AND RUPTURES OF THE DIAPHRAGM.—DIRECTION OF WOUNDS OF THE CHEST.—WOUNDS OF THE ABDOMEN.—DEATH FROM BLOWS ON THE CAVITY.—RUPTURES OF THE LIVER, GALL-BLADDER, SPLEEN, KIDNEYS, INTESTINES, STOMACH, AND URINARY BLADDER.—WOUNDS OF THE GENITAL ORGANS.

Wounds of the Chest.—Wounds of the chest have been divided into those which are confined to the parietes or walls and those which penetrate the cavity. Incised or punctured wounds of the parietes of the chest are rarely followed by dangerous consequences. The bleeding is not considerable, and is generally arrested without much difficulty. They heal either by adhesion or suppuration, and unless their effects are aggravated by incidental circumstances, the person recovers. Contusions or contused wounds of the chest are, however, far more dangerous, and the danger is always in a ratio to the degree of violence used. Such injuries when severe, are ordinarily accompanied by fractures of the ribs or sternum—by a rupture of the viscera within the cavity, including the diaphragm—by profuse bleeding—or, as an after-effect, by inflammation of the lungs, with or without suppuration. Fractures of the ribs are dangerous for several reasons: the bones may be splintered and driven inwards, thereby wounding the lungs and causing hemorrhage, or leading to inflammation of the pleura or lungs. In fractures of the upper ribs, the prognosis is less favorable than in those of the lower, because com-

monly a much greater degree of violence is required to produce the fracture. A simple fracture of the sternum or chest-bone without displacement of the bone, is rarely attended with danger, unless the concussion has at the same time produced mischief internally, which will be known by the symptoms. When, however, the bone is depressed as well as fractured, the viscera behind may be mortally injured. In a case of depressed fracture of the sternum, recorded by M. Sanson, the person died after the lapse of thirteen days; and on inspection, it was found that the fractured portion of bone had produced a traverse wound of the heart about an inch in length. The cavities of the organ had not been penetrated, but the piece of bone was exactly adapted to the depression produced by it on the parietes. (Devergie, "Méd. Lég." vol. 2, p. 243.) A witness will frequently be required to take into consideration the effects of contusions on the thorax, with or without fracture, in cases of death from pugilistic combats, which formerly gave rise to numerous trials on charges of manslaughter. Wounds penetrating into the cavity of the chest are generally dangerous, even when slight, in consequence of the numerous accidents with which they are liable to be complicated. In these wounds, the lungs are most commonly injured; but, according to the direction of the weapon, the heart, or the great vessels connected with it, as well as the œsophagus (gullet) or thoracic duct, may share in the mischief.

Wounds of the Lungs.—The immediate cause of danger from wounds of these organs is the consequent hemorrhage, which is profuse in proportion to the depth of the wound and the size of the vessels wounded. Should the weapon divide any of the trunks of the pulmonary veins, the individual may speedily sink. The degree of hemorrhage cannot be determined by the quantity of blood which escapes from the wound; for it may flow internally, and collect within the cavity of the pleura, impeding respiration. This is especially to be apprehended when the external orifice of the wound is small and oblique, and one of the intercostal arteries has been touched by the weapon. A wound of the lung is generally known, among other symptoms, by the frothiness and florid color of the blood which issues from the orifice, as well as by the expectoration of blood. The lungs may sustain serious injury from a blow or fall, and yet there may be no external marks of violence or symptoms indicative of danger for some hours. During the convalescence of a person who has survived the first effects of a penetrating wound of the chest, the surgeon should observe whether death, when it occurs, may not have been caused either by imprudence on the part of the patient, or by abuse of regimen or other misconduct; for circumstances of this nature may be occasionally treated as mitigatory on the trial of the assailant. It is properly recommended that in all cases where a person is progressing to recovery, a relaxation of the antiphlogistic regimen should be made with great circumspection. Too much nourishment, too frequent talking, or any exertion, are circumstances that may cause a renewal of the bleeding and extravasation.

Wounds of the Heart.—Wounds of the heart are among the most fatal of penetrating wounds of the chest. It was formerly considered that all wounds of this organ were necessarily and instantly mortal. Undoubtedly, when either of the cavities is laid open to a large extent, the bleeding is so profuse on the withdrawal of the weapon, that death must be immediate. But when the wound is small, and penetrates into the cavities of the heart obliquely, life may be prolonged for a considerable period; and cases are on record in which it is probable that such wounds would have healed, and the patients have finally recovered, but for the supervention of other diseases which destroy life.

[Numerous examples of wounds of the heart not directly fatal are cited by Beck (ii. 329–332) and by Stillé ("Wh. and Stillé," 2d ed. p. 580). We know of at least three others, occurring in Philadelphia, not noted in these works, in which the victim was proved to have walked several steps after having been wounded in the heart. See "Proc. of Path. Soc. of Philad.," in "N. A. Med.-Chir. Rev.," March, 1859, p. 299; also "New York Med. Times," April, 1855, for the case of Poole, referred to above from Dr. Darling; and in the same journal (May, 1855), "Statistical Observations on Wounds of the Heart, and on their relations to Forensic Med.:" with a table of forty-two recorded cases, by Dr. Purple; also "Am. Journ. Med. Sciences," July, 1861, p. 293, for a case of bullet in the wall of the heart for twenty years. See, further, a paper "On Wounds of the Heart," by Dr. Jno. Redman Coxe, "Am. Journ. Med. Sci.," Aug. 1829, 307; and "Archiv. Génér. de Méd.," Sept. 1839, for a valuable paper "On Penetrating Wounds of the Heart," by M. Jobert De Lamballe. Two cases have recently occurred at the Pennsylvania Hospital at Philadelphia, which are worth noting. One is that of a negro, æt. 18, who was admitted, in a very prostrate condition, at 5 o'clock P. M. on Friday, May 31, 1861, a half an hour after having received a penetrating wound of the chest inflicted with a dirk-knife. He soon rallied somewhat in strength, and was able to sit up in bed, but suffered much from dyspnœa until some three or four hours before his death, which took place rather unexpectedly, at 6 o'clock A. M. the following Wednesday, just four days and fourteen hours after the reception of the wound. A post-mortem examination proved that the instrument had grazed the lung, without opening its cellular tissue, and had penetrated the left ventricle at its apex, making a transverse wound a quarter of an inch in length and not valvular. The left lung had collapsed, and the pleural cavity of that side contained a considerable amount of bloody serum. The pericardium, although open at the wound, was distended with blood, and the wounded ventricle presented a small heart-clot, which covered and partially closed the wound. The other case is that of Chas. Keen, white man, æt. 40, who was stabbed by a lunatic, with a pair of tailor's shears, on the 28th of July, 1859, and was at once brought to the Pennsylvania Hospital. He suffered greatly from palpitation of the heart, prostration, and difficulty of breathing, but improved so much during the first ten days, that our diagnosis of a wound of

the heart was beginning to be unsettled. The dyspnœa, prostration, and disturbance of the heart, however, returned, and he was evidently in a hopeless condition, when, on the 12th of August, he and his family insisted on his being taken to his own house. He was accordingly carried at least a mile on a settee, in a city rail car, and died about twelve hours after leaving the hospital, on the 13th of the month, sixteen days after the infliction of the wound. At the inspection made by the coroner's examiner for the inquest, Dr. S. P. Brown, he ascertained that "the left auricle had been punctured in its upper part, the heart completely encased in plasma, the pericardium filled with serum, and the left lung had partially collapsed."—H.]

It was the opinion of Dupuytren, that these injuries were not necessarily fatal, although I believe, with one exception, there is no case on record in which a person has recovered from a penetrating wound of the cavities of the heart. ("Ed. M. and S. J." Oct. 1844, 557; also "Ann. d'Hyg." 1846, t. 1, p. 212.) There are few, probably, who will be inclined to consider them curable; a remote possibility of simple wounds healing, and of the patient recovering, may be admitted, but until some clear instances of recovery from penetrating wounds of the cavities are reported, the majority of practitioners will continue to look upon them as fatal. From a series of cases collected by MM. Ollivier and Sanson, it appears that out of twenty-nine instances of penetrating wounds of the heart, only two proved fatal within forty-eight hours. In the others death took place at the varying periods of from four to twenty-eight days after the infliction of the wound. (Devergie, "Méd. Lég." vol. 2, p. 253.) These differences in the time at which death occurs, as well as the fact that wounds of the heart do not instantly destroy life, have been ascribed to the peculiar disposition of the muscular fibres of the organ, and to the manner in which they are penetrated by a weapon. It appears from the observations of M. Ollivier and others, that the right cavities of the heart are more frequently wounded than the left, and of these the right ventricle is most commonly the seat of injury. Out of sixty-four cases of wounds of this organ, twenty-nine were situated in the right ventricle, twelve in the left ventricle, nine in the two ventricles, three in the right auricle, and one in the left auricle. These differences are readily accounted for by the relative situation of the cavities. It appears also, that wounds of the right ventricle are not only the most frequent, but of all others they are the most rapidly fatal. It is considered that the suddenness of death in severe wounds of the cavities of this organ, is to be ascribed not merely to the loss of blood, but to the degree of compression which the heart experiences from that which escapes into the bag of the pericardium. In reference to the direction of penetrating wounds of the chest, it may be proper to state that the base of the heart corresponds to the upper margin of the third rib on the left side; and the apex to the lower margin of the fifth rib on the same side.

A penetrating wound of the heart was formerly considered to be instantaneously mortal, and the usual medical opinion at coroners' inquests was, that a person so wounded, must have dropped down

dead on the spot. More accurate observations have, however, shown that this is an erroneous, and in medico-legal practice, a highly dangerous doctrine. The *Duc de Berri*, who was murdered in Paris in 1820, survived eight hours after having received a wound of the left ventricle. Other and more remarkable instances of survivorship have been recorded; and it may be stated, that, although in a surgical view, a question of this kind is of little importance, the case is very different in legal medicine. Upon it may depend the decision of questions relative to suicide, murder, or justifiable homicide. When the cavities of the heart, especially the auricles, are extensively laid open, death is likely to be an immediate result; but persons who have sustained wounds of this organ have frequently lived sufficiently long to exercise a power of volition and locomotion. In reference to penetrating wounds (stabs) little or no blood probably escapes from the heart in the first instance, but it may afterwards ooze gently, or suddenly burst out in fatal quantity. It must not, therefore, be supposed, when a person is found dead with a wound of the heart, attended with abundant hemorrhage, either that the flow of blood took place in an instant, or that the person died immediately and was utterly incapable of exercising any voluntary power.

The heart is liable to be *ruptured* either from disease or accident. In the latter case, the organ generally gives way towards the base, and through one of its cavities on the right side. Dr. Hope asserts that in ruptures from natural causes, it is the left side of the heart, and particularly the left ventricle, in which a rupture is most frequently found. The symptoms are sudden pain, collapse, cramps, cold extremities, and rapid death. According to the circumstances under which they occur, cases of rupture from disease may excite a suspicion of death from violence. Sometimes the substance of the heart may be found to have undergone fatty degeneration. As a medico-legal subject, it is worthy of note, that when this alarming accident proceeds from blows or falls, it is not always accompanied by marks of external violence—or any fracture or other injury to the exterior of the chest. The *natural* causes of rupture of the heart are violent mental emotions, such as anger, fright, terror, paroxysms of passion, sudden or excessive muscular efforts, or violent physical exertions in constrained positions. The heart, like any other muscle, may also give way from its own powerful contraction. When the heart is in a diseased condition, any slight causes of excitement are sufficient to produce rupture and sudden death. The mere exercise of walking may thus give rise to fatal consequences.

Wounds of Arteries and Veins.—Wounds of the large arterial and venous trunks, around the heart, must be considered as mortal: death is generally instantaneous from the sudden and profuse bleeding which attends them. With regard to these fatal effusions of blood within the chest, as well as in the other great cavities, it may be proper to mention that, from whatever vessel or vessels the blood may have issued, it is not commonly found coagulated to any extent. The greater part of it generally preserves the liquid state: and it is

rare that so much as one-half of the quantity effused is met with in the form of coagulum. These effusions of blood in the chest may be sometimes traced to wounds of the intercostal and the internal mammary arteries, or of the vena azygos.

Wounds of the *carotid arteries* have been considered elsewhere in reference to wounds of the throat. Questions relative to the power of locomotion perhaps more frequently occur with respect to wounds of these bloodvessels of the neck than of the heart—suicide and murder being more commonly perpetrated by the infliction of such wounds. Wounds of the carotid arteries are often pronounced *instantaneously* mortal. A witness may deliberately state that the person could not possibly have survived an instant. This is a very hazardous opinion, for it occasionally comes out, on inquiry, that if such a wound had been instantaneously mortal, then, in defiance of rational probability, or of the strongest presumptive evidence to the contrary, the deceased must have been murdered! A medical opinion of this kind has not only been refuted by circumstances, but by the evidence of eye-witnesses. A medical witness is then compelled to admit that his rules for judging of the mortality of wounds are erroneous, and that the person may have survived for a longer or shorter period. There are several cases on record which show that wounds involving the common carotid artery and its branches, as well as the internal jugular vein, do not prevent a person from exercising voluntary power, and even running a certain distance. There is another circumstance which requires notice in relation to severe wounds in the *throat*—namely, that although a person may have the power of locomotion, he may not be able to use his voice so as to call for assistance. It sometimes excites surprise at an inquest, how a murder may, in this way, be quietly committed without persons in an adjoining room hearing any noise; but the fact is well known medically, that when the windpipe is divided, as it generally is on these occasions, the voice is lost.

In reference to severe wounds involving bloodvessels, while we may allow that persons may survive for a sufficient time to perform various acts of volition and locomotion, yet the presence of a mortal wound, especially when of a nature to be accompanied by a great loss of blood, must prevent all *struggling* or violent exertion on the part of the wounded person; such exertion we must consider to be quite incompatible with his condition. A medical jurist may thus have it in his power to determine whether a mortal wound found on the deceased has or has not been inflicted for the purpose of murder. Of wounds of other bloodvessels, whether arteries or veins, it is unnecessary to make any further remark. Death is generally owing to loss of blood, and the bleeding from a comparatively small vessel may prove fatal, according to its size, situation, and the state of the wounded person.

Death from the Entrance of Air into Wounded Veins.—In wounds of *veins* there is an occasional and a peculiar cause of death which requires a remark, namely, the entrance of air by the open mouth of the divided vessel.

It has been long known that air injected into the jugular vein would destroy life by interfering with the functions of the heart; but the exact nature of this accident, as it occurs in operations, is not well understood. (Ferguson's "Surgery," p. 444.) According to some, the air rushes into the cavity of the vessel owing to atmospheric pressure during the expansion of the heart, while others believe it to be dependent on aspiration in the act of breathing: but in some alleged cases of this kind, death has been probably caused by loss of blood. When the bleeding is slight, and the hissing sound is heard at the time of the incision, it may fairly be ascribed to the entrance of air. This opinion would be confirmed by the discovery of a frothy state of the blood in the right cavities of the heart.

Wounds and Ruptures of the Diaphragm.—The diaphragm, or muscular partition between the chest and abdomen, is liable to be wounded either by weapons which penetrate the cavity of the chest or abdomen, or by the ribs when fractured by violent blows or falls; but, under any circumstances, wounds of this muscle are not likely to occur without implicating other important organs that are in contact with it. It is scarcely possible, therefore, to estimate the danger of these injuries abstractedly, as a medical opinion must materially depend on the concomitant mischief to the adjoining viscera. Slight penetrating wounds of the diaphragm may heal like those of other muscular parts: and cases of this kind are on record. There is, however, especially when the wound is of a lacerated kind, a consecutive source of mischief which no remedial means can avert—namely, that after the wound has, to all appearance, healed, the life of a person may be cut short by the strangulation of a portion of the stomach or bowels in the half-cicatrized aperture. In a case of this description, when death occurs at a long period after the infliction of a wound, the witness may probably be required to say—Whether the wound was the cause of death? or whether there were any other circumstances which would have caused or facilitated the production of a hernia. The degree of culpability of an aggressor may materially depend upon the answers returned to these questions. *Phrenic hernia*, as this form of internal rupture is termed, is not by any means an unusual or unexpected fatal consequence of a wound of the diaphragm; and therefore it would appear at first sight, that death, at whatever period this event may occur, should be referred to the original wound. But the case may present some difficulties, as it is possible that a slight blow on the stomach, received subsequently to the wound, or even any violent exertion on the part of the deceased, might have produced the fatal strangulation. A person may survive with a large phrenic hernia for a considerable period, and die from some other cause. It has been stated that a person is completely incapacitated and rendered incapable of exertion or locomotion by a rupture of the diaphragm. This statement, however, has been based on limited observation. The general effect of such an injury is to incapacitate a person, but cases are recorded in which,

in spite of the rupture, a person has possessed the power of moving and walking to a considerable distance.

The most serious injuries to the diaphragm are unquestionably those which are produced by violent contusions or falls on the abdomen, at a time when the stomach and intestines are distended. In these cases the muscular fibres may be ruptured to a greater or less extent; but the bleeding is not considerable, rarely exceeding two, three, or four ounces. A uniform result of these *ruptures*, when extensive, is a protrusion of the stomach into the chest, with sometimes a rupture of the coats of this organ and extravasation of its contents. Severe lacerations of the diaphragm are more readily produced during the act of inspiration than during expiration—the fibres of the muscles being then stretched, and receiving, while in this state of tension, the whole of the force. According to Devergie, the rupture most frequently takes place in the central tendinous structure, where it is united with the left muscular portion above the crura. He has remarked that it occurs more commonly on the left side than on the right. (Op. cit. vol. 2, p. 250.) It has been supposed that death would be an immediate consequence of this accident; but this view is not supported by facts. In a case of extensive rupture of the diaphragm, related by Devergie, in which the stomach and colon were found in the chest, the person lived nine months after the only accident that could have produced it, and then died from another cause. Besides the stomach, it sometimes happens that the liver, spleen, or intestines pass through the opening, and, like it, these organs are liable to become strangulated: the lungs are at the same time so compressed that respiration is stopped, and asphyxia or suffocation may be an immediate result.

Direction of Wounds in the Chest.—In judging of the *direction* taken by wounds which traverse the chest from front to back, it is necessary to remember the great difference that exists in the level of the same rib anteriorly and posteriorly. This must be especially attended to when we are called upon to state the direction of a traversing wound from the description of it given by another. The point here referred to had an important bearing in the case of a fatal gunshot wound, which was the subject of a criminal charge some years since. (Henke's "Zeitschrift," 1836.) It must not be forgotten that a wound immediately below the chest bone, will in its fore part involve the viscera of the abdomen—in the back part those of the chest, and in its central part it will traverse the diaphragm.

Wounds of the Parietes of the Abdomen.—Incised and punctured wounds, which affect the parietes or coverings of the abdomen, without penetrating the cavity, are not quite of so simple a nature as might at first sight be imagined. The danger is immediate if the epigastric artery be wounded; for a fatal hemorrhage will, in some instances, take place from a wound of this small vessel. Among the sources of danger from superficial wounds, is inflammation, followed by suppuration beneath the tendinous membrane which covers the abdominal muscles. The matter formed is very liable to accumulate within the sheath of the muscles, and this may prove fatal

unless proper treatment be adopted. The inflammation will sometimes extend to the peritoneum, and thus rapidly destroy life. As improper medical treatment may, in either of these cases, cause a superficial wound of the abdomen to take a fatal termination—so when a person stands charged with having inflicted such a wound, it will be necessary for a medical witness to consider how far the consequences of the act of the prisoner have been aggravated by wilful neglect or unskilfulness. But when these wounds take a favorable course and heal, there is an after effect to be dreaded, namely, a protrusion of the viscera at the cicatrized spot, constituting ventral hernia. When the wound has involved the muscular fibres transversely to their course, the cicatrix which follows is commonly far less capable of resisting the pressure of the viscera within, than any other parts of the parietes. A hernia may take place, and this, like other herniæ, if neglected, is liable to become strangulated, and lead to the destruction of life. The walls of the abdomen, owing to the protrusion of this cavity, are easily penetrated by pointed instruments, and it requires but a slight force to traverse them completely and wound the intestines. A slight wound may thus prove fatal by causing peritoneal inflammation.

Contusions are attended generally with far more serious effects on the cavity of the abdomen than on the chest. This arises from the coverings of the abdomen having less power to resist external shocks. In the first place, death may be the immediate result of a blow in the upper and central portions; no particular morbid changes may be apparent on inspection, and the violence may have been so slight as not to have produced any ecchymosed mark on the skin. Death has been ascribed in these cases to a fatal shock transmitted to the system through a violent impression produced on the nerve-centre—called the solar plexus. Some remarks have already been made on sudden death from blows on this part of the abdomen. Travers, Alison, Watson, Cooper, and other writers on surgical injuries, have referred to cases of this kind as of not unfrequent occurrence. They are of considerable importance in a medico-legal point of view, as, in the absence of marks of physical injury in the part struck, a jury might be led to doubt whether the blow could have been the cause of death. Some surgeons have thought that these cases have not been accurately observed, and that in those which terminate fatally, a more careful inspection would probably have shown visible changes in the organic structures. The fact, however, remains: persons have died soon after receiving severe blows on the upper part of the abdomen, and the medical men who have examined the bodies for the express purpose of detecting physical injuries, have not found any to record. Moreover they have not found in any part of the body a natural cause of sudden death. Blows on the abdomen, when they do not destroy life by shock, may cause death by inducing peritoneal inflammation. Violence of a severe kind applied to the abdomen is not always indicated by ecchymosis or injury to the skin. Effusions of blood in the sheaths or tendinous coverings of the muscles, may or may not be indicative of violence. One fact must here be borne

in mind, to prevent mistakes in examining a body after death, namely, that blood may be found copiously effused in and around the abdominal muscles, quite irrespective of the application of violence. (Reid's "Physiological Researches," p. 511.) The absence of ecchymosis, or abrasion of the skin, in these cases, is sufficient to show that such extensive effusions are not caused by violence. Blows adequate to produce a laceration of the vessels and hemorrhage, would most probably be attended with ecchymosis—and some visible injury to the skin. At any rate when such marks of violence are not visible, and there is no evidence of a blow having been struck, a witness would act wisely in declining to attribute the mere effusion of blood to the act of another person. Deeply penetrating wounds of the abdomen are generally fatal by reason of the injury done to the intestines and other organs.

Ruptures of the Liver.—Blows on the abdomen may prove fatal by causing a rupture of the liver or other viscera, with extravasation of blood: and as it has been elsewhere stated, these serious injuries may occur without being attended with any marks of external violence. Of all the internal organs, the liver and spleen are the most exposed to rupture, owing to their compact structure, which prevents them from yielding to a sudden shock, like the stomach and intestines. Ruptures of the liver may occur from falls or blows; but this organ may be ruptured merely by a sudden action of the abdominal muscles. Ruptures of the liver generally seen on the convex surface and anterior margin, seldom extending through the whole substance of the organ, but consisting of fissures, varying from one to two inches in depth. The right lobe, from its size, is more usually affected than the left. Their usual direction is from before backwards, with a slight obliquity; they rarely interest the liver transversely. The lacerated edges are not much separated, while the surfaces present a granular appearance. But little blood is met with in the laceration; it is commonly found effused in the lower part of the cavity of the peritoneum, or in the hollow of the pelvis, and is only in part coagulated. Ruptures of the liver, unless they run far backwards and involve the vena cava or portal vein, are not in general attended with any considerable effusion of blood; but the bleeding, should this vessel be implicated, is sufficient to cause the instant destruction of life. Under other circumstances, a person may survive some hours, as the blood may escape only slowly, or it may be suddenly effused in fatal quantity after some hours or days, as a result of violent exertion or of fresh violence applied to the abdomen. Ruptures of the liver generally prove fatal within forty-eight hours. One case has been related in which the person survived for eight days: and a case occurred to Dr. Wilks in which a person in Guy's Hospital survived this serious accident ten days.

Wounds and ruptures of the *gall-bladder* are necessarily attended with the effusion of bile. This irritant fluid finds its way into the cavity of the abdomen, and the person dies from peritonitis.

Rupture of the Spleen.—Rupture of the spleen may occur either from violence or disease, and it would appear that a slight degree of

violence may in some cases cause a rupture of this organ, without any marks of injury appearing externally.

Rupture of the Kidneys.—The *kidneys* are occasionally ruptured from violence; but this appears to be a rare accident. A rupture of the kidney may be produced without causing any prominent symptoms, and prove fatal in a few hours. It may be remarked generally that ruptures of the liver, spleen, and kidneys, unless attended with immediate and copious bleeding, are not inconsistent with a person having the power to move and walk. In a case which occurred at Guy's Hospital, a man had retained the power of walking for some distance, although on inspection after death, one kidney was found torn in halves from an accident.

Ruptures and Wounds of the Intestines.—Ruptures of the intestines sometimes occur from disease; and, in a case of rupture alleged to have been produced by violence, we must always take this possible objection to our opinion into account. The ruptured part of the bowel should be carefully examined, in order to see whether there are any signs of ulceration or softening about it. If not, and there is clear evidence of violence having been used, it is impossible to admit this speculative objection. If with the proof of violence there should also be a diseased condition of the bowel, we may be required to say whether this did not create a greater liability to rupture—a point which must be generally conceded.

Punctured wounds, which merely touch the bowels without laying open the cavity, are liable to cause death by peritonitis. These injuries to the intestines sometimes destroy life by shock; there is but little blood effused, and the wounded person dies before peritonitis can be set up. Severe wounds to the intestines may, however, be inflicted almost without the consciousness of the individual, and the wounded person may be able to walk a considerable distance. ("Med. Gaz." vol. 46, p. 24.)

Wounds and Ruptures of the Stomach.—Wounds and ruptures of the stomach may cause death by shock; ruptures commonly give rise to severe pain, which of itself is sufficient to bring about rapid dissolution. It is proper to state, however, that the stomach may be ruptured from spontaneous causes, as in cases of ulceration as a result of disease; but sometimes there is no morbid cause apparent.

Ruptures of the Bladder.—This injury, which has on several occasions given rise to medico-legal discussion, is frequently the result of blows on the lower part of the abdomen. The principal questions in reference to the accident are: Was the rupture the result of wilful violence or of an accidental fall? or did it proceed from spontaneous causes, as from over-distension? The spot in which rupture commonly takes place, is in the upper and back part, where the bladder is covered by the peritoneum. The aperture is sometimes large, at others small; but the effect is that the urine is effused, and death takes place sooner or later from peritoneal inflammation. It is commonly stated that ruptures, when attended with extravasation of urine into the peritoneal cavity, are uniformly fatal; but if the rupture occurs in the under part of the bladder, or the urine

finds its way into the cellular tissue, the medical opinion is not so unfavorable. The usual period at which death occurs from this accident is in from three to seven days; but Mr. Ellis met with a case in which the person did not die until the fifteenth day. The cause of death is obviously peritoneal inflammation; but a person may die suddenly from this injury as a simple result of shock.

When ruptures of the bladder are produced by blows they are rarely accompanied by marks of ecchymosis, or of injury to the skin. Thus, then, there may be no means of distinguishing, by external examination, whether a rupture was really due to violence or to spontaneous causes. They who are unacquainted with this fact, might be disposed to refer the rupture to disease, on the supposition that violence should always be indicated by some visible external injury; but there are numerous cases on record which show that this view is erroneous.

As an attempt may be made, in cases in which death has resulted from this injury, to refer rupture of this organ to *natural causes*, it may be observed that this is an unusual occurrence; a rupture is almost always the result of violence directly applied to the part while the organ is in a *distended* state. A *spontaneous rupture* may, however, occur: 1. When there is paralysis, with a want of power to expel the urine. 2. When the bladder is ulcerated or otherwise diseased. 3. When there is an obstruction in the urethra from stricture or other causes. The causes of spontaneous rupture are easily recognizable by ascertaining the previous condition of the deceased, or examining the bladder and urethra after death. If a man were in good health prior to being struck; if he suddenly felt intense pain, could not pass his urine afterwards, and died from an attack of peritonitis in five or six days; if, after death, the bladder was found lacerated, but this organ and the urethra were otherwise in a healthy condition, there can be no doubt that the blow must have been the sole cause of rupture and death. In such a case, to attribute the rupture to spontaneous or natural causes would be equal to denying all kind of causation. As to the absence of marks of violence externally, this would be a difficulty only to those who had not previously made themselves acquainted with the facts attending this and other accidents affecting the viscera of the abdomen (p. 215). Nevertheless, a medical witness must be prepared to hear the same line of defence continually brought forward, as it is always the object of a counsel to make the best of a case for the prisoner. With medical facts, opinions, and doctrines he does not concern himself, so long as they do not serve his purpose. A diseased state of the bladder might probably diminish the responsibility of an accused person for the consequences; therefore the state of this organ should be closely looked to on these occasions. A distended state of the organ can be no mitigatory circumstance, since it is only when the bladder is in this condition that rupture is liable to occur. This can hardly be regarded as an abnormal condition of the organ. An accidental fall forwards over a hard surface when the bladder is distended with urine may lead to rupture. The person generally experiences intense

pain in the lower part of the abdomen, and there is an inability to pass the urine. Although a man is liable to be rendered powerless on sustaining a rupture of the bladder from a heavy blow or fall, there are several well authenticated cases on record which prove that a man may walk some distance, and move about even for two or three hours afterwards.

In punctured and incised wounds of the bladder, the urine is immediately extravasated, but in gunshot wounds, the extravasation does not commonly take place until the sloughs have separated. Thus, life may be protracted longer in cases of gunshot than under other wounds of the bladder. For the discovery of extravasated liquids or blood, in wounds and other injuries to the abdominal viscera, we must look to the cavity of the pelvis, as it is here that, for obvious reasons, such liquids have a tendency to collect.

Wounds of the Genital Organs.—Wounds of these organs do not often require the attention of a medical jurist; such wounds, whether in the male or female, may, however, prove fatal to life by excessive bleeding. Self-castration or mutilation is sometimes observed among male lunatics and idiots. When timely assistance is rendered a fatal result may be averted. Incised, lacerated, or even contused wounds on the female genitals, may prove fatal by loss of blood, not from the wound involving any large vessel, but from the numerous small vessels which are divided. When deeply *incised* wounds are inflicted upon the genital organs of either sex, the fact of their existence in such a situation, at once proves wilful and deliberate malice on the part of the assailant. Accident is wholly out of the question, and suicide is improbable, except in cases of confirmed idiocy and lunacy. Such wounds require to be carefully examined; for the proof of the kind of wound, when fatal, may be tantamount to a proof of murder. A practitioner may be sometimes required to determine whether wounds affecting the female organs have resulted from accident, have been self-inflicted, or inflicted by others with homicidal intention. The remarks elsewhere made on the subject of imputed wounds will apply to cases of this description. [In the Oyer and Terminer of Meigs County, Ohio, February Term, 1866, Mary Broderick was indicted for having caused the death of her husband by "purposely and maliciously with her right hand grasping and wrenching the penis of the said Patrick Broderick with intent to inflict a mortal wound: by means whereof, the urethra, with the corpus spongiosum and corpus cavernosum, was broken and severed, and from the effects thereof the said Patrick Broderick died on the eleventh day thereafter." The defendant was found guilty of manslaughter by the jury. A motion for a new trial was made, which had not when the case was reported been disposed of. See "Cincinnati Journal of Medicine," July, 1866, p. 316, where this case is reported, together with instances of similar injury resulting from accident, in an article by Dr. Geo. C. Blackman.—P.]

Contused wounds on the female genitals may prove fatal, by the laceration of parts leading to great loss of blood. Several trials for manslaughter have taken place, in which this was proved to

have been the cause of death. There may be such a loss of blood in these cases as to destroy life, although no large bloodvessel is implicated in the injury. A contused wound on the vulva may occasionally present an ambiguous appearance and be mistaken for an incised wound. When the soft parts of the body are struck by a blow or kick, if there is a bony surface beneath, a longitudinal rent may appear as a result of the force being received by the bone. A kick on the vulva, or a fall on this part, may produce a similar injury, and unless carefully examined, may lead to the inference that a weapon has been used for its production. It is well known that some females are subject to frequent discharges of blood from the genital organs from natural causes. When the bleeding immediately follows a blow, and the woman has not been subject to such a discharge, the fair presumption is that violence was the cause: but when the flow of blood appears only a long time after the alleged violence, of which no traces can be seen, it is most probably due to natural causes.

It may be alleged in defence, that the injuries found on the body were inflicted *after death*, and not while the deceased was living. Kicks or blows on the vulva, if they destroy life at all, cause death by copious effusion of blood. Violence to this part after death would not produce such an effusion as would account for death. There are also other distinguishing characters which have been elsewhere pointed out.

CHAPTER XXXII.

FRACTURES.—PRODUCED BY A BLOW WITH A WEAPON OR BY A FALL.—BRITTLENESS OF THE BONES.—FRACTURES CAUSED BY SLIGHT MUSCULAR EXERTION.—IN THE LIVING AND DEAD BODY.—HAS A BONE EVER BEEN FRACTURED?—LOCOMOTION.—DISLOCATIONS FROM VIOLENCE OR NATURAL CAUSES.—MEDICAL OPINIONS.—ACTIONS FOR MALAPRAXIS.

FRACTURES.

FRACTURES of the bones have some important bearings in relation to medical jurisprudence. They may result from falls, blows, or the spontaneous action of muscles.

Causes.—Questions are sometimes put as to whether a particular fracture was caused by an accidental fall or a blow; and if by a blow, whether by the use of a weapon or not. It is obvious that the answers must be regulated by the circumstances of each case. In examining a fracture, it is important to determine, if possible, whether a *weapon* has or has not been used, and this may be sometimes ascertained by the state of the parts. It is a common defence,

on these occasions, to attribute the fracture to an accidental fall. Fractures more readily occur from equal degrees of force in the old, than in the young, and in the young rather than in the adult; because it is at the adult period of life that the bones possess their maximum degree of firmness and solidity. The bones of aged persons are sometimes very *brittle*, and slight violence will then produce fracture. This has been regarded as an extenuating circumstance, when the fracture produced by a slight blow was followed by death. Certain diseases, such as syphilis, arthritis, cancer, scurvy, and rachitis, render bones more fragile; but they are sometimes preternaturally brittle in apparently healthy persons, and this brittleness appears to be hereditary. In such cases, a defence might fairly rest upon an abnormal condition of the bones, if the violence producing the fracture was slight. Several trials have taken place in which this brittleness of the bones became a subject of inquiry. In a case of fractured skull leading to death from inflammation of the brain, it was proved that the bones of the skull were occasionally thin and brittle, and this led to a mitigation of punishment. The orbitar plate of the frontal bone is very thin, and it may be fractured by a blow on the eye. Death may under these circumstances result from inflammation of the brain.

Spontaneous Fractures.—In a case in which there is no appearance of disease, a fracture may be ascribed to spontaneous causes. Thus bones have been fractured by moderate muscular exertion. The elbow (olecranon), heel-bone (os calcis), and knee-pan (patella) are particularly exposed to this accident. The long bones are seldom the subject of an accident of this kind; but the arm (os humeri) in a healthy man has been broken by the simple muscular exertion of throwing a cricket-ball. ("Medical Gazette," vol. 16, 659.) Mr. May reports the case of a young lady, who fractured the neck of the scapula by suddenly throwing a necklace round her neck. ("Med. Gaz.," Oct. 1842.) In July, 1858, a gentleman, æt. 40, was in the act of bowling at cricket, when on delivering the ball he and some bystanders heard distinctly a sharp crack like the breaking of a dry piece of wood. He fell to the ground as if he had been shot. The thigh-bone was found to be fractured, and evidently from muscular exertion only. No person can meet with an accident of this kind without being instantly conscious of it. It is probable that in these instances, if there were any opportunity of examining the bone, it would be found to have undergone some chemical change in its composition, which had rendered it brittle. In fractures arising from this cause there will be no abrasion of the skin, nor any appearance to indicate that a blow has been struck; while the marks of a blow would, of course, remove all idea of the fracture having had a spontaneous origin. It is most unusual that the ribs should be fractured from muscular exertion; but a case occurred to Dr. Groninger, which shows that this accident may really occur. It is only of medico-legal importance, inasmuch as the injury might be ascribed to violence: but the absence of any external appearance indicative of a blow would render it probable that this was not the cause.

Fractures are not *dangerous to life*, unless, when of a compound nature, they occur in old persons, or in those who are debilitated by disease or dissipated habits. They may then cause death by inducing irritative fevers, erysipelas, gangrene, tetanus, pyæmia, or delirium tremens.

Fractures in the Living and Dead Body.—It is not always easy to say whether a fracture has been produced *before or after death*. A fracture produced shortly after death, while the body is warm, and another produced shortly before death, will present similar characters, except that in the former case there might be less blood effused. A fracture caused ten or twelve hours before death would be indicated by a copious effusion of blood into the surrounding parts and between the fractured edges of the bones, as well as by the laceration of the muscles; or if for a longer period before death, there may be the marks of inflammation. Fractures caused several hours after death are not accompanied by an effusion of blood. A medical witness may be asked, How long did the deceased survive after receiving the fracture? This is a question which can be decided only by an examination of the fractured part. Unless the person has survived eighteen or twenty-four hours, there are commonly no appreciable changes. After this time, lymph is poured out from the surrounding structures. This slowly becomes hard from the deposition of phosphate of lime, and forms what is called a "callus." In the process of time, the callus acquires all the hardness of the original bone. The death of a person may take place during these changes, and a medical man may then have to state the period at which the fracture probably happened, in order to connect the violence with the act of a particular person. Unfortunately, we have no satisfactory data, if we except the extreme stages of this process of repair, upon which to ground an opinion. We can say whether a person lived for a long or a short time after receiving a fracture, but to specify the exact time is clearly impossible; since this process of restoration in bone varies according to age, constitution, and many other circumstances. In young persons, bones unite rapidly, in the old slowly; in the diseased and unhealthy, the process of union is slow, and sometimes does not take place at all. In those who are at the time affected with a mortal disease there is no attempt at reparation. According to Villermé, the callus assumes a cartilaginous structure in from sixteen to twenty-five days; and it becomes ossified in a period varying from three weeks to three months. It requires, however, a period of from six to eight months for the callus to acquire all the hardness, firmness, and power of resisting shocks possessed by the original bone. A force applied to a recently united bone will break it through the callus or bond of union, while after the period stated, the bone will break as readily through any other part. It is generally assumed, that the period required for the union of a simple fracture, is, for the thigh-bone, six weeks, for the tibia (leg), five weeks; for the os humeri (arm), four weeks: and for the ulna and radius (forearm), three weeks; for the ribs about the same period: but cases have been known in which the ribs had not perfectly united

in two months, and in some fractures of the other bones, it was found that union had not taken place in four months. In a case which occurred to Dr. Reid, a fracture of the tibia, the principal bone of the leg, healed in three weeks.

Has a Bone ever been Fractured?—This question is sometimes put in reference to the living body. It is well known that a bone seldom unites so evenly that the point of ossific union is not indicated by a node or projection. Some bones are so exposed as to be well placed for this examination, as the radius, the clavicle, and tibia—these being but little covered by skin; in others the detection is difficult. It is impossible for us to say when the fracture took place; it may have been for six months or six years—as, after the former period, the bone undergoes no perceptible change. These facts are of importance in relation to the *dead* as well as to the living; since they will enable us to answer questions respecting the identity of skeletons found under suspicious circumstances: and here medical evidence may take a wider range, for a fracture in any bone may be discovered, if not by external examination, at least by sawing the bone longitudinally through the suspected broken part, when, should the suspicion be correct, the bony shell will be found thicker and less regular in the situation of the united fracture than in the other parts. So, in such cases, it will be easy to say whether a fracture is recent or of old standing.

Locomotion.—With respect to the power of *locomotion* after a fracture, it may be observed, that when the injury is in the arm or in the ribs—unless many of the ribs are broken or the fractures are on both sides—a person may be able to move about, although he is unfitted for struggling or making great exertion. Fractures of the leg generally incapacitate persons from moving except to short distances. [The best American authority on this and all other questions relating to fractures and dislocations, is the "Treatise on Fractures and Dislocations," by Dr. Frank H. Hamilton. See also the excellent American translation by Dr. John H. Packard, of the classical work of Malgaigne "On Fractures."—H.]

Dislocations.

Dislocations are not frequent in the old or in those persons whose bones are brittle. They rarely form a subject for medico-legal investigation. A witness is liable to be asked, what degree of force, and acting in which direction, would produce a dislocation—questions not difficult to answer. They are not dangerous to life, unless of a compound nature, when death may take place from secondary causes. A dislocation which has occurred in the *living body* may be known after death by a laceration of the soft parts in the neighborhood of the joint, and by the copious effusion and coagulation of blood. If of old standing, a dislocation would be identified by the cicatrices in surrounding structures. Dislocations may occur from *natural causes*, as from disease and destruction of the ligaments in a joint; also from violent muscular spasm during an epileptic con-

vulsion. Dr. Dymock met with an instances of dislocation of the shoulder forwards during puerperal convulsions. ("Ed. Med. and Surg. Journal," April, 1843; see also "Lancet," April, 1845, p. 440.) A power of *locomotion* may exist, except when the injury is in the lower limbs; but it has been observed, that for some time after a dislocation of the hip-joint, considerable power over the limb remains; it is only after a few hours that the limb becomes fixed in one position. Exertion with the dislocated member is in all cases out of the question.

Detection of Fractures. (*Malapraxis.*)—There are certain fractures of an obscure kind which closely resemble dislocations. This has been pointed out by Sir A. Cooper, in relation to fractures of the anatomical neck of the os humeri (arm-bone). ("Guy's Hosp. Rep." No. 9, p. 272.) This accident might easily be mistaken for a dislocation of the shoulder. ("Med. Gaz." vol. 36, p. 38.) In attempting to reduce the bone, the head continually falls back into the axilla. In such a case an action for malapraxis might be brought against a surgeon, and heavy damages recovered. It could only be by a dissection of the part after death that the real nature of the case would be ascertained. It is requisite, therefore, that great caution should be used in giving an opinion. The same observations apply to fractures of the neck of the thigh-bone, although with less force, because this is a more common accident. It is well-known that fractures and dislocations, when cured, are often attended with some slight *deformity* of the limb, or with some impairment of its functions. This result is occasionally inevitable under the best treatment; but it is commonly set down as a sign of unskilfulness in the medical attendant. An action for malapraxis is instituted, and in spite of good evidence in his favor, the surgeon is sometimes heavily fined for a result which could not be avoided. There is often great injustice in these proceedings, and the mischief can only be remedied by referring the facts to a competent medical tribunal, which alone should be empowered to decide whether or not unskilfulness had really been shown in the management of a case. The system of allowing each party to select his own medical witnesses invariably leads to a conflict of opinion and evidence.

[The proof of ordinary care and skill and judgment exercised in the treatment of a case is a sufficient defence in law against a claim for damages on account of alleged malpractice; but it is too apt to fail with the juries in this country, and will not protect the victim of a prosecution from its attendant expenses. Although our judges, in many instances, have done their best to secure just verdicts, the juries are notoriously stupid and unjust; so that the only real security to the attending surgeon is in an indemnity bond against all consequent prosecution, to be previously assumed by the patient.—H.]

CHAPTER XXXIII.

GUNSHOT WOUNDS.—IN THE LIVING AND DEAD BODY.—WAS THE PIECE FIRED NEAR OR FROM A DISTANCE?—ACCIDENTAL, SUICIDAL, OR HOMICIDAL WOUNDS.—POSITION OF THE WOUNDED PERSON WHEN SHOT.—WOUNDS FROM SMALL-SHOT.—WOUNDS FROM WADDING AND GUNPOWDER.

GUNSHOT wounds are of the contused kind, but they differ from other wounds in the fact that the vitality of the parts struck by the projectile is destroyed, and this leads ultimately to a process of sloughing.

The medico-legal questions which arise out of gunshot wounds, are similar to those which have been examined in relation to other wounds. They are *dangerous to life*, especially when they penetrate or traverse any of the great cavities of the body. Death may take place directly, either from loss of blood or from shock; although immediate or copious bleeding is not a common character of these injuries. Death from shock is occasionally witnessed. Indirectly, these wounds are attended with much danger; sloughing generally takes place uniformly throughout the whole of the parts perforated, and inflammation or fatal bleeding may cut short life. If the person survives the first effects, he may die at almost any period from suppurative fever, erysipelas, gangrene, or from the results of operations absolutely required for his treatment. Gunshot wounds may thus destroy life after long periods of time.

A medical witness may be asked whether the wound was inflicted *before or after death*. It is by no means easy to answer this question, unless the bullet has injured some vessel, when the effusion of blood and the formation of coagula will indicate that the person was living when it was received. If a gunshot wound has been produced in a dead body, no blood will be effused unless the bullet strikes a large vein.

Was the Piece fired near or from a Distance?—A gunshot wound produced by the muzzle of a piece being placed near to the surface of the body, has the following character: There may be two apertures, the one of *entrance* and the other of *exit;* but it sometimes happens that the bullet lodges and does not pass out. The edges of the aperture of entrance are generally torn and lacerated, and appear blackened, as if they had been burnt: this arises from the heat and flame of the gunpowder at the moment of explosion. The skin is often ecchymosed, and is much discolored by the powder: the clothes covering the body are blackened by the discharge, and sometimes ignited by the flame. If the muzzle of the piece was not in imme-

diate contact with the part struck, the wound is rounded: but if there has been direct contact, the skin, besides being burnt, is torn and much lacerated. The bleeding is usually slight, and when it occurs it is more commonly observed from the orifice of exit than from that of entrace. It should be remarked that the aperture of entrance is round only when the bullet strikes point blank or nearly so. If it should strike obliquely, the orifice will have more or less of an oval or valvular form; and by an observation of this kind we may sometimes determine the relative position of the assailant with respect to a wounded person. Supposing the bullet to have been fired from a moderate distance, but so near as to have had sufficient momentum to traverse the body, then the appearance of the wound will be different. The *orifice of entrance* will be well defined, round or oval, according to the circumstance—the skin slightly depressed—the edges presenting a faintly bruised appearance; but the surrounding parts are neither blackened nor burnt, and they do not present any marks of bleeding. In these cases the *orifice of exit* is large, irregular, the edges somewhat everted, and the skin lacerated, but free from any appearances of blackness or burning: it is generally three or four times as large as the entrance-aperture. The orifice of entrance is, however, generally large and irregular when the bullet strikes near the extremity of its range. Under common circumstances, the entrance-aperture may have the appearance of being smaller than the projectile, owing to the elasticity of the living skin. ("Ann. de'Hyg." 1839, t. 2, p. 319.) It is the same with the aperture in the dress, when this is formed of an elastic material. According to Dupuytren, the hole in the dress is always smaller than that made by a bullet in the skin. These points should be remembered in fitting projectiles to wounds which they are supposed to have produced.

The question whether a piece was fired *near to, or at a distance from*, the wounded person, may be of some importance either on a charge of homicide, or of alleged suicide. Two persons may quarrel, one having a loaded weapon in his hand, which he may allege to have been accidentally discharged, and to have killed the deceased. If the allegation is true, we ought to find on the body the marks of a near wound: if, however, its characters were such that it had obviously been produced from a distance, and therefore after the quarrel, medical proof of the fact might imply malice and involve the accused in a charge of murder. It has been said that when a bullet is fired near, it commonly traverses the body; and therefore it has been rather hastily assumed, that when there is only one external wound, and the bullet has lodged in the body, this is a proof that the piece has been fired from a distance. This inference is, however, erroneous. A bullet may be fired close to a person and yet not traverse the body, either from its impulsive force not being sufficiently great, or from its meeting a great resistance in its course. Many cases might be cited to show, that in the near wounds produced by suicides and murderers, the bullets have not always traversed the body. In suicide, when the piece is discharged into the mouth, the projectile often

lodges in some part of the head. It is not in the power of a witness to say, from the mere fact of a bullet lodging or traversing, whether the assassin was far off or near, at the time the deceased was wounded. The latter point may be sometimes readily determined by the marks of injury and burning about the skin and dress. When a gun or pistol is discharged at the distance of three or four yards from the person, it will not, of course, produce those marks of blackening, burning, and bruising on the skin which are found when the muzzle is within a few inches of the body. A wound which does not present these appearances may remove the suspicion of suicide, and create a strong presumption of homicide. Dr. Lachèse found that in firing a gun at the distance of four feet, the skin was only partially blackened. It would be very important in a case of this kind to notice the direction of the wound as well as the relative position of the assailant and assailed, as stated by witnesses or deduced from circumstances.

When a ball traverses the body, it sometimes happens that the two apertures are opposite to each other, although the ball may not have taken a rectilinear course between them, but have been variously deflected by the subjacent soft parts. This deflection of a ball from a rectilinear course is met with in those cases in which it happens to strike obliquely a curved surface, and it is found that when the ball enters and does not pass out, its course is often circuitous, so that it is not always easy to say in what part of the body it will be found.

A witness may be asked—When was the gunshot wound inflicted and how long did the wounded person *survive* after receiving it? Like other wounds, a gunshot wound undergoes no change for eight or ten hours after its infliction. Our judgment in reference to these questions may be assisted by observing the parts which are involved, although we cannot always infer from the quantity of blood found near to a body that the bleeding was an immediate consequence of the wound, or that the whole of the blood was effused at once. We cannot, then, always affirm that the deceased could not have moved or exerted himself in some degree, after receiving it. The exertion thus made subsequently to his being wounded, may have actually caused the fatal bleeding.

Suicidal or Homicidal Gunshot Wounds.—When it is doubtful whether the wound was the result of suicide or homicide, the point may be sometimes determined by paying attention to its situation and direction. *Suicidal* gunshot wounds are almost always directed to a vital part—to the heart or to the brain; they possess those characters which belong to wounds inflicted near to the body. The skin is discolored or burnt, the wound wide and lacerated, the hand which discharged the weapon often blackened, and sometimes still grasping the pistol. The ball may or may not have traversed, as this will depend on the momentum which it derived from the charge, and the resistance that it experienced.

Accidental gunshot wounds bear the characters of near wounds; they may touch vital parts, but, if the body has not been disturbed,

the presence or absence of design in the infliction of a wound is commonly made apparent by the relative position of the body and the weapon. They frequently arise from persons drawing the charges of guns or pistols with the muzzles pointed towards them, and they are then situated in front; at other times they are produced by persons pulling towards them through hedges, or dragging after them, loaded guns. In the latter case the wound is behind, and it may strongly resemble a homicidal wound, although the circumstances under which the body is found generally suffice to explain the matter. (See "Ann. d'Hyg." 1860, t. 1, p. 443.) In *suicide* there is commonly strong evidence of design; in accident all evidence of design is wanting. Suicides sometimes make use of extraordinary weapons, or use weapons in an extraordinary manner.

Position of the Wounded Person when Shot.—Did the deceased receive the shot while standing, falling, or lying down? Was the piece, when discharged, pointed from the shoulder? These questions can only be answered by reference to the particular circumstances of the case. In general, when a person is shot while standing, and the piece is pointed from the shoulder, the wound is more or less transverse; but due allowance must be made for the deflection of balls after penetration. Was the deceased shot while running away, or when approaching the person who fired? This question is answered by observing, in the case of a traversing wound, in which alone any difficulty can arise, whether the entrance-orifice be situated in front or behind.

Wounds from Small-Shot.—Death is sometimes occasioned by small-shot, and here several medico-legal questions present themselves. Small-shot may act in two ways: 1. It either strikes without spreading, in which case the discharge is always near the person, and its action is much more dangerous than that of a single ball, because it produces extensive lacerations; or 2. It strikes after it has spread, and here the discharge must have been distant and comparatively little mischief is done. Dr. Lachèse ascertained, by many experiments on dead bodies, that in order to produce with small-shot, a round opening somewhat resembling that produced by a bullet, the discharge should take place point-blank at the distance of about ten or twelve inches from the surface of the body. When the distance was from twelve to eighteen inches, the opening made was irregular, and the borders were much lacerated; at thirty-six inches, a central opening was entirely lost, and the surface of the body was covered with shot. The effect after this was found to depend on the distance, the goodness of the gun, and the strength of the charge ("Ann. d'Hyg." 1836, p. 386); but the shot is, in general, much scattered over the surface of the body. From these results we may form an opinion of the distance at which the piece was fired.

It is difficult to conceive that small-shot can, under any circumstances, produce a single entrance-wound, having some appearance of circularity about it, without at the same time singeing or burning the skin or dress. The difficulty of laying down any general rules respecting the wounds produced by small-shot at their entrance and

exit, will be apparent from the following facts, communicated to me recently by two medical gentlemen. A boy was shot in the neck by the accidental discharge of his gun, loaded with an ounce of No. 8 shot. He died instantly. He was leaning forwards on the muzzle, so that it was nearly in contact with the skin of the neck. A large round hole was produced, one inch and a half in diameter, the edges of which were slightly blackened with powder. The exit-aperture which was at the back of the neck a little to the left of the third cervical vertebra, was a mere slit in the skin, scarcely an inch long, with the long diameter placed vertically. The smallness of this aperture may have been owing to the greater part of the charge being lodged in that body. The entrance-aperture, although rounded, was too large to be mistaken for a bullet-wound; it was evidently a near wound, from the blackening of the edges. On the other hand, Dr. Lowe informs me that in some experiments performed by his brother, it was found that a round aperture might be produced by a discharge of small-shot at a much greater distance from the object than that assigned by Dr. Lachèse. Admitting such exceptional instances, and assuming the general correctness of the inferences drawn by Dr. Lachèse, from the results of his experiments in discharging small-shot at dead bodies placed at different distances, it does not seem probable that a wound from small-shot can, under any circumstances, be mistaken for one produced by a leaden *bullet*. A discharge of small-shot, in contact with the skin or close to it, will however produce, not a round opening, but a severe lacerated wound.

Small-shot is rarely observed to traverse the body entirely unless discharged so near as to make a clean round opening; but a single pellet reaching the body may destroy life. There may be no exit-aperture, or it may be smaller than that of entrance. Such minute wounds might be easily overlooked in the examination of a dead body. Small-shot, even when wounding only the skin of the back superficially, has been known to cause death by tetanus.

Wounds from Wadding and Gunpowder.—It matters not with what the piece is charged—it is capable, when fired near, of producing a wound which may prove fatal. Thus a gun loaded with wadding, or even with gunpowder only, may cause death. In these cases, an impulsive force is given by the explosion, and the substance becomes a dangerous projectile. The lighter the projectile—the shorter the distance to which it is carried; but when discharged near to the body, it may produce a fatal penetrating wound. A portion of the dress may be carried into the wound, and lead to death from bleeding: or if the wounded person recover from the first effects, he may subsequently sink under an attack of tetanus or erysipelas. It is unfortunate that so much ignorance prevails on this point: for fatal accidents frequently occur from persons discharging guns at others in sport—an act which they think they may perform without danger, because they are not loaded with ball or shot.

It has been observed, that persons in attempting to commit suicide have occasionally forgotten to put a bullet into the pistol; never-

theless, the discharge of a piece into the mouth has sufficed, from the effect of the wadding only, to produce a considerable destruction of parts, and to cause a serious loss of blood. Fatal accidents have frequently taken place from the discharge of wadding from cannon during reviews. It is not easy to say at what distance a weapon thus charged with wadding and powder would cease to produce mischief, since this must depend on the impulsive force given by the powder, and on the size of the piece. Dr. Lachèse has ascertained by experiment, that a piece charged with gunpowder, is capable of producing a penetrating wound somewhat resembling that caused by small-shot, when the piece is large, strongly charged, and fired within six inches of the surface of the body. ("Ann. d'Hyg." 1836, p. 368.) This arises from a portion of the powder always escaping combustion at the time of discharge, and each grain then acts like a pellet of small-shot. Under any circumstances, a discharge of powder only contuses the skin, producing ecchymosis, and often lacerating it, if the piece be fired near. The dress is burnt and the skin scorched from the globe of flame formed by the combustion of the powder; many particles of gunpowder may be actually driven into the true skin. All the substances here spoken of are considered to be projectiles; and the weapons are held in law to be loaded arms, so long as they are capable of producing bodily injury at the distance from which the piece containing them is discharged. It may therefore become a question as to the distance at which these light projectiles cease to be harmless. The answer must be governed by circumstances; but it will in all cases materially depend on the strength of the charge. Dr. Swift, U. S., has performed some experiments with a pistol loaded with gunpowder and *wadding*, in order to determine the effect of discharges at different distances. At twelve inches distance from a dead body, he found that the clothes were lacerated and the skin abraded, but the wadding did not penetrate; at six inches, the clothes were lacerated, and the wadding penetrated to the depth of half an inch; at two inches, the wound produced, which was two inches deep, was ragged and blackened; at one and a half inch from the chest, the wadding passed into the cavity between the ribs, and in a second experiment it carried away a portion of a rib. ("Med. Gaz." vol. 40, p. 734.) These results confirm those obtained by Dr. Lachèse.

Examination of Fire-arms.—An attempt has been made by French medical jurists to determine for how long a period a gun or pistol found near a dead body, may have been discharged; but it is out of our power to lay down any precise rules on such a subject. All that we can say is, a quantity of sulphide of potassium, mixed with charcoal, is left adhering to the barrel of the piece, when *recently* discharged; and this is indicated by its forming a strong alkaline solution with water, evolving an odor of sulphuretted hydrogen, and giving a deep-brown precipitate with a solution of acetate of lead. After some hours or days, according to the degree of exposure to air and moisture, the saline residue becomes converted into sulphate

of potash, forming a neutral solution with water, and giving a white precipitate with acetate of lead. If a considerable time has elapsed since the piece was discharged, oxide of iron with traces of sulphate may be found. (See "Ann. d'Hyg." 1834, 458; 1839, 197; 1842, 368.)

CHAPTER XXXIV.

DEATH FROM BURNS AND SCALDS.—SYMPTOMS.—STUPOR.—CAUSE OF DEATH.—POST-MORTEM APPEARANCES.—BURNS ON THE DEAD BODY.—ACCIDENT, HOMICIDE, OR SUICIDE.—WOUNDS CAUSED BY FIRE.—SCALDING.—BURNS BY CORROSIVE LIQUIDS.

Burns and Scalds.—A *burn* is an injury produced by the application of a heated substance to the surface of the body; while a *scald* results from the application of a liquid at or near its boiling point, under the same circumstances. There seems to be no real distinction between a burn and a scald in reference to the effects produced on the body: the injury resulting from boiling mercury or melted lead might take either appellation. Nevertheless, as a matter of medical evidence, it may be important to state whether the injury found on a body was caused by such a liquid as boiling water, or by a heated solid. If the former, the injury might be ascribed to accident; if the latter, to criminal design. A scald produced by boiling water would be indicated by a sodden state of the skin and flesh, but there would be no destruction of substance. In a burn by a heated solid, the parts may be more or less destroyed, or even charred: the cuticle may be found blackened, dry, almost of a horny consistency, and presenting a shrivelled appearance. This distinction, however, would only apply to scalds from water. A scald from melted lead (620°) could not be distinguished from a burn produced by a solid heated to the same temperature. Some of the oils boil at 500°, and they produce by contact with the skin, burns as severe as those caused by melted metals. Burns from flame such as that of gas are indicated by extensive scorching of the skin, while burns from gunpowder are known not only by the scorching, but by the small particles of unburnt carbon which are imbedded in the skin.

Neither a burn nor a scald appears to be considered as a *wound* in law; but in the statute of wounding they are included among bodily injuries dangerous to life. Burns and scalds may be regarded as dangerous in proportion to the extent of surface (of skin) which they cover, as well as the depth to which they extend. The extent of surface involved in a superficial burn, as a result of exposure to flame, is of greater importance than the entire destruction of a small part of the body through an intensely heated solid. When the burn is extensive, death may ensue either from the severity of the pain

produced, or from a sympathetic shock to the nervous system. Death takes place rapidly from burns in children and nervous females: but in adults and old persons, there is a better chance of recovery.

Cause of Death.—In some instances, especially in children, stupor and insensibility have rapidly supervened, owing to sympathy with the brain; and these symptoms have been followed by coma and death. Of the cause of death in persons exposed to fire but little need be said. In large conflagrations persons are frequently simply suffocated, from the want of proper air or the respiration of the products of combustion—carbonic acid or carbonic oxide. The former darkens the blood; the latter renders it lighter in color. In other cases, where a large volume of flame suddenly falls upon the body and the person is still able to breathe, the fatal effect may be due to shock—a sudden and violent impression on the nervous system. A person may recover from the first effects of severe burns, but ultimately sink from exhaustion or from an attack of tetanus. ("Med. Times and Gaz.," April, 26, 1854, p. 406.)

Post-mortem Appearances.—In examining the body of a person found burnt, all matters connected with sex and identity should be first duly observed. Dr. Grünbaum has reported a case in which he was required to examine certain carbonized remains in which, in spite of the destruction of the sexual organs, he was able to determine the sex. (Horn's "Vierteljahrschrift," Oct. 1864.) When a body has been entirely consumed by fire the presence of a large quantity of phosphate of lime in the ashes would indicate animal remains. The bones are never completely destroyed; they become white, and portions of them retain their form under the action of a most intense fire.

When death has been caused by severe pain, no changes have been detected in the dead body; but, in some fatal cases, it has been found on inspection that there were patches of redness on the bronchial mucous membrane, as well as on the alimentary canal. The brain has been found gorged, and the ventricles have contained an abundance of serosity. The serous liquids of the pericardium and pleura have also been in larger quantity than natural. In short, besides congestion, there is generally abundant serous effusion in one of the three great cavities, especially in the head. This arises from the sudden reflux of blood into the interior, as an effect of the local injury. In deaths from fires in houses the persons are usually suffocated, and there are the appearances of this kind of death (see SUFFOCATION.) In a case in which a woman died on the thirteenth day from a superficial burn involving the skin of the lower part of her body, the stomach was found inflamed at its greater extremity, and the duodenum at its lower portion—the mucous folds of the intestines having a scarlet color. The other intestines as far as the cœcum were also more or less inflamed. ("Amer. Jour. Med. Sciences," Jan. 1861, p. 137.) If the person survives the first effects, he may die from inflammation, suppuration, gangrene, irritation, or fever, or he may be worn out by exhaustion.

Did the Burning of the Body take place before or after Death?—Vesication.—The production of *vesication* or of *blisters* containing serum, is commonly regarded as an essential character of a burn which has been produced during life, but it is not a necessary or invariable effect of a burn on the living body. Vesication is especially observed in scalds, or in those cases in which the skin has been burnt by flame or by the ignition of the clothes, provided the cuticle has not been destroyed. It is not so commonly observed in burns produced by intensely heated solids. In vesication, the cuticle is raised from the true skin beneath, and is converted into one or more blisters containing serum or a serous liquid, while the skin around is of a deep-red color. It is uncertain as to the time at which it appears; it may be produced in a *few minutes*, or sometimes not for several hours; hence death may take place before vesication occurs, and the non-discovery of this condition does not warrant the opinion that the burn could not have taken place during life. If the cuticle is removed from a vesicated part of the living body, the skin beneath will become intensely reddened, but if the cuticle is stripped off a dead body, the skin will become hard, dry, and of a horny-yellow color; it does not acquire the intense scarlet injection which is acquired by the living skin when vesicated and exposed.

In cases in which persons, while living, have suffered from general dropsy, it has been found, on the application of heat to their bodies after death, blisters containing serum or a serous liquid have been formed; hence, in drawing a conclusion from the examination of *burns* on the body of a person affected with general dropsy, it is necessary to be cautious. In such cases it would not be possible, from the mere presence of serous blisters, to say whether the burn took place before or after death. The late Dr. Wright found in his experiments on the dead body, that if a sufficient heat were applied to within half an hour or longer after death, blisters containing serum were sooner or later produced. In short, as long as the body was warm and the joints were flexible, the effects of fire were similar to those observed on the living. Other experimentalists have found that blisters were produced, but they did not contain serum. The result no doubt depends on the time after death at which the experiment is performed.

Accident has enabled me to describe the results within a very short period after death. The body of a drowned man, within a few minutes after the accident, was removed from the water and placed in a warm (hot?) bath. It was found impossible to resuscitate him, but owing to the great heat of the water, portions of the cuticle came off, when the body was removed. On inspection there were several vesications *filled with bloody serum* over a considerable portion of the skin, especially of the extremities. There was no anasarca here to account for their production; and the fact of their occurrence appears to bear out the view of Dr. Wright, that the production of a *serous* blister on a dead body depends on the amount of latent organic life remaining in it. In this case the man was pulseless, and to all appearance *dead*, when placed in the hot bath; hence

the effects of hot water on the living and recently dead body, so far as the production of serous blisters is concerned, are similar. Dr. Chambers has lately published the results of numerous experiments on the effects of burns on the living and dead body. These have been made on the bodies of persons, from the moment of death until twenty hours after dissolution, and some were performed before death. The general results of his researches are—that vesications, or blisters, may be produced by burns both on the living and dead body; that they are produced at a lower temperature in the living than in the dead; that in the living a burn produces great capillary congestion, with the effusion of serum in the blisters, and that this serum when heated, or treated with nitric acid, sets into a nearly solid coagulum. The blisters produced in a dead body, even a few minutes after death, contain a thin watery serum, which is only rendered opaline or milky by heat and the action of nitric acid. ("Ann. d'Hyg.," 1859, vol. 1, p. 342.) When the body is cold and rigid, blisters containing air or vapor alone are produced.

In burns, especially in those produced by red-hot solids, other effects besides vesication follow. The edge of the skin immediately around the part burnt is commonly of a dead white, and close to this is a *deep red line*, gradually shaded off into the surrounding skin, which is reddened. The diffused redness is removable by pressure, and disappears with life; the red line here referred to, however, is not removable by pressure, and is persistent after death. This line of redness is not always met with in severe burns, and when a person survives one or two days, its production appears to depend upon a power of reaction in the system. Thus, then, its absence furnishes no proof of the burn having been produced after death, for it is not a necessary accompaniment of a burn during life. Dr. Wright considered that in a low state of vitality a line of redness might not be produced by a severe burn on the living body, and that more certain reliance may be placed on the red marks found beneath the blisters and crusts of vital burns. These latter were well marked when he found the line of redness itself indistinct. (Op. cit., p. 25.) The researches of Dr. Chambert confirm this view. In a burn on a living person, if the skin has not been entirely charred and destroyed, the cutis will present a dotted or pointed redness—these dots or points corresponding to the sudiparous (perspiratory) and hair-follicles. After complete death, a burn does not produce any such effect; the cutis is of a dead-white on its surface and in its substance. In one experiment performed ten minutes after death, there was no redness of the skin, either beneath the blisters or in the surrounding parts. ("Ann. d'Hyg.," 1859, vol. 1, p. 368.) This reddened or congested state of the bare skin is more constant than any other appearance, and forms at present the best criterion of the infliction of a burn on the living body. The conclusions which, it appears to me, we may draw from the foregoing statements, are: 1. That, as a general rule, when we discover blisters with effusion of serum, or a line of redness, or both, and a reddened or congested state of the skin, about a burnt part of the body, we are justified in saying that the burn has

occurred during life. 2. That when these appearances are not met with, it by no means follows that the burn had not been produced in the living body.

When *several burns* are found on a dead body, it may be a question whether they were all produced at the same time. This is a point which can be determined only by observing whether any of them present signs of gangrenous separation, of suppuration, granulation or other changes that take place in a living body after accidents of this kind. The witness may be asked, How long did the deceased survive the burn? A person may die in a few minutes or live some hours after receiving a most extensive burn; and yet there will be no change in the part burnt, to indicate when death actually took place. There may have been no time for inflammation or its consequences to become established. Suppuration generally follows vesication, and in severe cases it may occur on the second or third day; but often not until a later period. In regard to gangrene, this takes place when the vitality of a part burned is destroyed. The time of its occurrence is uncertain, but it sometimes very speedily follows the accident.

The subject of *scalding* scarcely requires a separate notice. A scald from boiling water would, when recent, be indicated by the production of serous blisters, or a sodden state of the skin, which appears white and soft. The living structures are not charred or destroyed as by the application of a red-hot solid.

Accident, Homicide, or Suicide.—It is rare that murder is perpetrated by burning: the dead body is either burnt for the purpose of entirely destroying it, or the clothes are fired soon after a person has been killed, in order to conceal wounds or other violent means of death, and to make it appear as if the deceased had been accidentally destroyed by fire. Death by burning is either the result of accident or homicide, most commonly the former; but medical evidence may give rise to a suspicion of murder under two circumstances: 1. When it is evident that several parts of the body have been fired at the same time, and the burns are such as not readily to be explained by the same accident, or by the accidental ignition of the clothes. 2. When there are marks of homicidal violence on the body; but these marks, if we except fractures of the bones, may be easily effaced when the burn is extensive.

Time required for the Burning of a Dead Body.—It may be a medico-legal question whether, on discovering a body much burnt, it could be determined from its appearance how long a period it would require to produce the amount of destruction observed. An answer to such a question may be necessary, in order to connect a person with the perpetration of an alleged crime, but the question does not admit of a precise answer. A conjecture only can be formed from the facts proved in each particular case. The human body contains a large proportion of water (72 per cent.); this gives to the soft structures a power of resisting combustion. At the same time there is a quantity of fat in the body, varying in different parts, but amounting to an average of about five per cent. The fat or oil

tends to increase its combustibility, and this is still further increased if the body is placed on any combustible article which can imbibe the oil, such as a rug or deal floor. The nature of the dress will also make a difference. Under a strong and active flame, which might subsequently burn out before the discovery of the body, there would be a degree of destruction in half an hour which a more slow and smothered combustion would not effect in several hours. It is from a want of due consideration of these facts that some of the older medico-legal writers have given support to the hypothesis of *spontaneous combustion*. It has been supposed that in certain cases the dead body has been more destroyed than seemed consistent with the fact of ordinary combustion from articles of dress or furniture; but this arose from want of sufficient experience on the effects of heat on the body. Then, as the means by which the dress of a person had become ignited were generally destroyed with the body, it was thought that a human being might, under certain conditions, be consumed by fire spontaneously generated within him. This extravagant hypothesis, which is on a par with the belief in witchcraft, and requires an equal amount of credulity to receive it, has, however, found advocates in modern times. [Dickens destroys one of his characters (Krook, in "Bleak House") by spontaneous combustion; and Marryat, in "Jacob Faithful," disposes of the mother of his hero in the same manner.—P.] In March, 1850, a man named *Stauff* was tried at Darmstadt for the murder of the *Countess of Goerlitz*. He had assaulted the deceased in her chamber, and then set fire to the furniture with a view to conceal his crime. The body and dress were partially consumed. As the means by which the fire was applied were not at once apparent, and the assassin had locked the doors of the room, some medical men took up the theory that the deceased had died from spontaneous combustion.

The facts of the case were referred to Prof. Liebig and Bischoff, of Giessen; and their report was issued in March, 1850, at which date the man Stauff was put on his trial. They found no difficulty in concluding that a murder had been perpetrated, and the body wilfully burnt *after death* for the purpose of concealing the crime. There was some doubt whether the deceased had died from strangulation, or from violence to the head. Stauff was convicted chiefly upon circumstantial evidence. He subsequently confessed that the Countess had entered her room as he was in the act of committing a robbery. A struggle took place: he seized her by the throat, strangled her, and afterwards placed the body in a chair, piling around it combustible articles of furniture. He set fire to these with the view of destroying the proofs of his crime. It was observed that the tongue of the deceased was protruded, as it is in violent strangulation, and that in its charred state it retained the position given to it by the act of murder. Other instances of alleged spontaneous combustion, if properly investigated, would have turned out to be cases of accidental or homicidal burning.

Spontaneous combustion may take place in some kinds of vegetable and mineral substances, but not in the animal body, living or dead.

Corrosive Liquids.—Among the cases in which medical evidence is sometimes required, are those of throwing mineral acids, alkalies, or other corrosive liquids on the person. This crime was at one time prevalent, and until the recent alteration in the criminal law there was no adequate punishment for it (24 & 25 Vict. c. 100, s. 29). On one occasion, an assailant escaped a charge of felony, because it could not be considered, in law, that sulphuric acid was capable of producing a *wound*—the man having been indicted for wounding! This case clearly showed a strong necessity for some legal definition of a wound, as well as the uncertainty of medical opinions: for while one surgeon considered that the injury produced was a wound, another thought that it was not. The judges decided that it was not a wound within the meaning of the Act. The statute above mentioned, while it punishes the offence, omits all reference to a definition of the word wound. The nature of the liquid thrown is merely defined, in general terms, to be "any corrosive fluid or any destructive substance" —a point which will require medical evidence for its elucidation.

In common language, and according to the statute, the injury thus produced by a mineral acid such as oil of vitriol, is called a burn, but it is wholly different in its origin, as well as in its progress. I do not know that there has been a single instance in which such an injury has directly destroyed life; but great deformity and actual blindness have resulted. A medical man is sometimes required to distinguish these injuries from burns and scalds: this may be easily done, in the first instance by the appearance of the part injured, as well as by the description of the first symptoms. The stain is brown when sulphuric acid has been used, and yellow when nitric or muriatic acid has been employed. The eschar or destroyed part is soft and not dry as in a burn from a heated solid. The skin touched by a concentrated acid is destroyed and sloughs away, to the extent of the part on which the corrosive liquid was applied, leaving a suppurating and granulating surface. There is no capillary congestion or redness of the skin around the injury as in a burn; but the color of the injured part may throw some light upon the nature of the corrosive substance used. Thus, while oil of vitriol (sulphuric acid) produces dark-brown stains, aqua-fortis (nitric acid) produces yellow or yellow-brown stains on the skin. Articles of dress are also differently colored by these acids. The period at which a person may recover from an injury of this kind depends on its degree and extent, as well as on the part affected by the corrosive liquid. Although a person may not die from the direct effects of the acid, yet in certain irritable constitutions the inflammation which follows in deep-seated parts may prove fatal. In infants, or delicate nervous females, an extensive injury thus produced may readily destroy life. In one instance, sulphuric acid thrown on the face produced inflammation of the eye, for which bleeding was prescribed. The person died of phlebitis (inflammation of the vein), as the result of this bleeding. The nature of the acid may be determined by applying wetted linen to the part when the injury is recent, and examining the liquid thus absorbed. In general, however, evidence is readily obtained by

examining the spots or stains left on articles of clothing or furniture. Oil of vitriol is most commonly used. The caustic alkalies may be used under these circumstances, as well as numerous other liquids, on which the only medical opinion required would be, whether the article employed should or should not be considered as a corrosive liquid or a destructive substance. To constitute a felony, it is not now necessary that the *person* should have sustained, from the act of throwing, any bodily injury. Unless vital reaction has taken place, there are no means of distinguishing the effects of a corrosive liquid on the living from those produced on the dead body. ("Ann. d'Hyg." 1859, vol. 1, p. 396.)

The mineral acids are sometimes used in other ways for the destruction of life. In June, 1833, a man poured a quantity of strong nitric acid into the ear of his wife while she was lying asleep. She awoke suddenly with a violent pain in the ear, which continued for three days, whereby she became weak and exhausted. Soon afterwards there was copious bleeding, and a portion of membrane escaped. She lost the use of her right arm, and became completly deaf. Suppuration took place from the ear, and blood escaped daily. She gradually sank, and died six weeks after the injury, the right half of the body being convulsed before death. On inspection, a portion of the external ear was wanting, and the ear passage was much wider than natural. The brain, near the petrous portion of the temporal bone, was softened, and the bone itself diseased (carious). The injury had led to death indirectly by producing disease of the brain. ("Med. Gaz." vol. 17, p. 89.)

In a case tried at Aberdeen, the evidence proved that a woman had poured oil of vitriol down the throat of her husband, while he was lying asleep with his mouth open. She was convicted of the murder. In a more recent case, a woman killed her husband by pouring a solution of corrosive-sublimate down his throat while he was sleeping. These, however, were treated as cases of poisoning, as death did not depend on the local or *external* mischief produced by the corrosive agent employed.

ASPHYXIA.

DROWNING.

CHAPTER XXXV.

CAUSE OF DEATH.—SECONDARY CAUSES.—POST-MORTEM APPEARANCES.—MEDICAL PROOFS OF DEATH FROM DROWNING.—SPECIFIC GRAVITY OF THE BODY.—CO-INCIDENTAL CAUSES OF DEATH.—MARKS OF VIOLENCE.—ACCIDENTAL FRACTURES.—HOMICIDAL AND SUICIDAL DROWNING.

UNDER the term *Asphyxia* or *Apnœa* are included those forms of violent death in which the act of respiration is primarily arrested (p. 55). These comprise death from drowning, hanging, strangulation, and suffocation, and in this section the fatal effects of lightning, cold, and starvation will be considered.

Asphyxia is induced in drowning owing to a physical impediment to the introduction of air into the lungs. The medium in which the person is immersed acts mechanically, and even more effectually than a rope or ligature round the neck; for although air escapes from the lungs, and water penetrates into the minute air-tubes, yet no air can enter to supply the place of that which has already expended its oxygen on the blood. Hence this fluid must circulate, in the first few minutes after submersion, in a state unfitted for the support of life (unaërated); but the person lives, and is susceptible of recovery within a short interval. After the entire suspension of respiration, the action of the heart gradually slackens, and finally stops. It is at this period of the arrest of circulation that asphyxia passes into death. Asphyxia is determined by the period at which respiration is completely arrested; but the point of time at which death from drowning occurs, is fixed by the moment at which the action of the heart ceases. This varies considerably, according to age, sex, state of health, and other circumstances.

When a person falls into water, and retains his consciousness, violent attempts are made to breathe: at each time that he rises to the surface a portion of air is received into the lungs, but, owing to the mouth being on a level with the liquid, water also enters and passes into the throat. A quantity of water thus usually enters the mouth, which the drowning person is irresistibly compelled to

swallow. In his efforts to breathe while his head is below water, a portion of this liquid is drawn into the air-tubes and cells of the lungs. The struggle for life may continue for a longer or shorter period, according to the age, sex, and strength of the person; but the result is, that the blood in the lungs is imperfectly aërated, the person becomes exhausted, and insensibility follows. The mouth then sinks altogether below the level of the water—air can no longer enter into the lungs: a portion of that which they contain is expelled, and rises in bubbles to the surface; an indescribable feeling of delirium, with a ringing sensation in the ears, supervenes: the person loses all consciousness, and sinks asphyxiated. In the state of asphyxia, while the dark-colored blood is circulated, convulsive movements of the body take place, and the contents of the stomach are sometimes ejected by vomiting. There does not appear to be any sensation of pain, and, as in other cases of asphyxia, if the person recover, there is a total unconsciousness of suffering during the period when the access of air was cut off from the lungs. Some persons who fall into water are observed to sink at once, without making any attempt to extricate themselves. This may arise either from sudden syncope or from the stunning produced by the fall. Should the person be intoxicated or otherwise incapacitated, as by striking his head in falling, he may not again rise. These different conditions under which death may take place will sufficiently account for the difference in the appearances met with in the bodies of those who have died in water. A fatal result may be accelerated by the impression suddenly produced upon the skin, from the difference of temperature between the body and the water. To those who are not accustomed to water, a sudden immersion produces a great and rapid cooling of the surface, and forces the blood into the internal organs. There is difficulty of breathing, or severe spasmodic respiration, with giddiness and other symptoms, which may render a person powerless to extricate himself. The effect of cold on the skin is seen in the contracted state of the cutis in the bodies of those who have been drowned during the winter. It is calculated that in 25 per cent. of all who are drowned the cause of death is pure asphyxia, and that in the remainder, syncope and cerebral congestion amounting to apoplexy may have a share in causing death.

In regard to the time required for death to take place by drowning, it may be observed that when the mouth is so covered by water that air cannot enter, asphyxia comes on in the course of one or *two minutes* at the farthest, and the time at which this occurs does not appear to vary materially. Perfect insensibility has supervened after one minute's submersion, and it is probable that in most cases a few seconds would suffice for the commencement of asphyxia. In this state the person can make no efforts to save himself, and death commonly ensues in from two to five minutes. The power of restoring life depends not merely on the time that the body may have been submerged, but on the condition of the lungs at the time of its removal from the water. Experiments lately conducted by a Committee of the Medico-Chirurgical Society have clearly proved that,

as a form of asphyxia, drowning is not only more speedily fatal to life than ordinary suffocation, but from the effects produced on the lungs by water, the chance of recovery is lessened.

The Committee found that the difference in the results was not owing to exhaustion from struggling, from the violent efforts made to breathe, or from the effect of cold in immersing the whole of the body, but to the introduction of water by aspiration into the minute air-tubes and cells of the lungs. This conclusion was derived from the following experiments. Two dogs of the same size were submerged at the same moment, but one had his windpipe plugged, so that no air or water could enter, while the other had not. After *two minutes* they were taken out together: the one with the windpipe plugged recovered at once, the other died. In three experiments dogs with their windpipes plugged were kept below water for *four minutes:* the animals recovered perfectly when removed from the water. (Report on Suspended Animation, Med.-Chir. Trans., 1862, p. 449.) An inspection of the bodies at once revealed the difference. In animals simply deprived of air by plugging the windpipe, the lungs were merely congested; but in those which were submerged in their ordinary condition, the lungs besides being more congested and showing ecchymosed points on the surface and in the substance, contained in their bronchial tubes a bloody mucous froth, formed of water, blood, and mucus, which completely filled the small air-tubes. The respiratory efforts made by the animal before death had caused the production of this froth, which formed a mechanical impediment to the entrance of air by the movements of the chest, as in respiration. This mucous froth or foam issued from the lungs on section, and appeared to penetrate their entire substance, which was saturated with water tinged with blood. The lungs were sodden with water, heavy, soft, doughy, retained an impression produced by the finger, and were incapable of collapsing. In the lungs of animals which recovered after a short submersion, little or none of this mucous froth was found in the air-cells. In the fatal cases the quantity was great in proportion to the time of submersion. There is no doubt that it is produced by the violent efforts to breathe, which are made within a minute after submersion.

It may be inferred from these results that the power of recovery in human beings has a direct relation to the presence of mucous froth in the air-tubes, and to the penetration of the substance of the lungs with water. The larger the amount of froth produced and the greater the penetration, the less the hope of recovery; for when the lungs have undergone these changes they are physically unfitted either to receive or expel air by respiration—they are incapable of collapsing. These circumstances will account for the fact that persons have been resuscitated in drowning under various and even opposite modes of treatment, and even under no treatment at all. It is right that every reasonable effort should be made to restore life, but if the lungs are sodden with water, their functions cannot be restored by any mode of treatment. The Committee found that *four minutes'* complete submersion effectually killed dogs, although after

removal from water, the heart continued to beat from four to five minutes. The continuance of the heart's action furnishes, therefore, no criterion of the power of recovery. A human being, as a rule, dies if submersed for a period of from four to five minutes. In a few exceptional cases, persons have been resuscitated after this period, but it is most probable that in these the lungs had sustained no damage.

Death from Secondary Causes.—Drowning may operate indirectly as the cause of death. Thus it has been repeatedly remarked that persons who have been rescued from the water in a living state, and who have apparently recovered from the effects of submersion, have died, in spite of treatment, after the lapse of some minutes or hours; others have lingered for one or two days, and then have sunk apparently from exhaustion. In those who perish soon after removal from water, death may arise either from exhaustion or from the obstruction of respiration by the penetration of water into the air-cells of the lungs. Dr. Marcet states that spasm of the glottis has been among the severe secondary symptoms in persons who have been removed from water apparently drowned. A severe spasm of this kind manifested itself in one case while placing the patient in a warm bath. ("Med. Times and Gazette," February, 1857, p. 148.) When death takes place at a remote period, it may be caused by disease; and a question may thence arise, whether the disease was produced by the immersion in water or not. Such cases occasionally present themselves before our Courts of Assize.

Post-mortem Appearances.—The external and internal appearances produced by drowning vary according to the length of time during which the body may have remained in water, and the period that may have elapsed after its removal and before it is examined. Thus, in reference to the bodies of two persons drowned by a common accident, if one is removed and examined immediately and the other is not removed from the water until after the lapse of several days, and is then inspected, the appearances will be different. So, if the two bodies are removed at the same time, and one is immediately examined, while the other is not inspected until a month after removal, the proofs of drowning which may be discoverable in the former, will probably have disappeared in the latter. A protracted exposure of the drowned body either to water or air, especially if the temperature is high, renders an inspection useless for the purpose of evidence.

External Appearances.—Supposing that the body has remained in the water only a few hours after death, and the inspection has taken place immediately on its removal, the *skin* will be found cold and pallid—sometimes contracted under the form of "cutis anserina." This contracted state of the skin when found furnishes strong evidence of the body having gone into the water living. The skin is often covered to a greater or less extent by livid discolorations; the face is pale and calm, with a placid expression: the eyes are half-open, the eyelids livid, and the pupils dilated; the mouth closed, or half-open, the tongue swollen and congested—frequently pushed

forwards to the inner surface of the lips, sometimes indented or even lacerated by the teeth; and the lips, together with the nostrils, are covered with a mucous froth which issues from them. Kanzler has noticed in the male subject a remarkable retraction of the penis. In men who have gone living into the water and been drowned, this appearance has been repeatedly observed by Casper and Kanzler; and the former states that he has not met with this condition of the male organ after any other form of death. In strong and robust men it has been found short, and strongly retracted into the skin. ("Ger. Leich.-Oeffn." ii. 109.)

The body and limbs of a person recently drowned are usually found relaxed; but cadaveric rigidity appears to come on quickly in cases of drowning, and the body is often stiffened in the convulsed or distorted attitude which it may have had at the time of death. In a case observed by Mr. Beardsley, the body of a man who was drowned under ice, was found with the arms stiffened in the attitude in which he was endeavoring to support himself on the ice.

Among the casual external appearances, it has been noticed that the fingers and surface of the body occasionally present *abrasions*. Gravel, sand, mud, weeds, or other substances may be found locked within the hands or nails of drowned persons; for in the act of drowning, as common experience testifies, a person will grasp at any object within his reach, and in his efforts to extricate himself he may excoriate or wound his fingers. Substances floating in the water are also sometimes found in the nose, mouth, and ears. There are, however, many cases of drowning in which such appearances do not exist. There may be no substance for the drowning person to grasp: this will depend in a great degree upon the fact of the water being deep or shallow, of its being confined within a narrow channel or not, and many other contingencies. In all cases, when the person is senseless before he falls into the water, or when his death is occasioned by syncope, he will, of course, be incapable of making those exertions which are necessary to the production of this appearance, and it is probable that this frequently occurs among women who are accidentally drowned. When the body has remained several days in water, the skin of the palms of the hands and soles of the feet is found thickened, white, and sodden, as a result of imbibition.

Internal Appearances.—In a recently drowned body, the lungs and heart present the appearances usually indicative of asphyxia (p. 55). The venous system is generally gorged with dark-colored liquid blood. If death has not taken place from asphyxia, or if the body has remained a long time in water before an inspection is made, the lungs and heart will not present the characters about to be described. Some physiologists have asserted that the *blood* remains fluid in the bodies of the drowned; but more importance has been attached to this appearance than it really merits. Some observers have found the blood coagulated in the drowned, and I have seen coagula, like those usually met with after death, in the bodies of animals which were drowned for the sake of experiment. If the blood is found generally liquid, this may be due to the imbibition of water, or to

putrefactive changes. Riedell found the blood in the heart and large vessels to contain coagula, in inspections made from two hours to five days after death. ("Med. Gaz.," vol. 46, p. 478.) Hence it follows that the blood may be found either coagulated or uncoagulated in those who go into the water living, and die by drowning.

The *lungs* are sometimes congested, and more generally distended than collapsed. Casper and Kanzler, as a rule, found them much increased in volume, and completely filling the cavity of the chest, so that when the chest was opened they protruded out of it; but this did not depend on mere fulness of blood. The most accurate observations show in recent cases of drowning that the lungs are generally distended and in a flabby condition. Owing to the penetration of their substance by water, they have lost their usual elasticity, so that an impression made upon them by a finger is preserved, as in an œdematous limb. Riedell has pointed out this flabby and dilated condition of the lungs as a special characteristic of drowning: although they floated, he found that they were three or four times as heavy as in their natural state, owing to the water in their substance. ("Med. Gaz.," vol. 46, p. 478.) On making a section of any part of the lungs, a bloody frothy liquid escapes—air and water being mixed together in the air-cells. These appearances are only likely to be observed, in a well-marked form, when the body is examined soon after death. The *windpipe*, *bronchi*, and minute *air-tubes* of the lungs, in a recently drowned body, are filled more or less with a *mucous froth*, tinged with blood, as a result of the last violent efforts at respiration, when the mouth has sunk below the level of water. This appearance is not always met with. Thus it has not been found in the bodies of those who have sunk at once below the surface and have not again risen to breathe. But from recent experiments on animals, made by the Committee of the Medico-Chirurgical Society, its presence in the air-passages does not depend on the fact of a person rising to the surface—although this may increase the quantity—but rather upon the violent spasmodic efforts made to breathe, under circumstances in which water alone can enter the lungs. These facts show that a mucous froth is produced in the air-passages even in two minutes, when there is entire submersion of the head; and its quantity appears to be in proportion to the length of submersion, and the violence of the efforts made to breathe.

The presence in the air-passages of a mucous froth, frequently tinged with blood, may be regarded as a characteristic of asphyxia by drowning. When discovered in the lungs, associated with a watery condition of these organs, it furnishes a satisfactory proof of this mode of death. As its presence depends on the retention of air in thin vesicles diffused through the air tubes, it is obvious that, except in recent inspections, *i. e.*, within a few hours of death, it may have wholly or partly disappeared. Water passing in and out by the windpipe may destroy it—also the exposure of the body to a high temperature. This may account for the fact that it is not always observed in the inspection of the bodies of the drowned, when removed from water. Violent efforts at respiration may, however, produce

it—especially if, owing to the loss of power of swallowing, any liquid should find its way into the windpipe. Independently of the presence of *water* (sometimes mixed with mud, sand, or weeds) in the larger air-tubes, a portion of this liquid is generally drawn into the lungs by convulsive efforts at respiration. It fills the cells, and penetrates the substance of the organs, giving to them the flabby or doughy consistency already described. In some cases the contents of the stomach may be found in the windpipe and lungs: this occurs when a person has been drowned with a full stomach. Vomiting takes place, and the vomited matters are drawn into the lungs by the attempt to breathe.

The state of the *heart* in the drowned has given rise to some discussion. In death from asphyxia the right cavities generally contain blood, while the left cavities are either empty, or they contain much less than the right. Out of fifty-three inspections made by Dr. Ogston, the right cavities were found empty only in two cases, and the left cavities empty in fourteen. ("Med. Gaz.," vol. 48, p. 291.) In a case of drowning which was examined by Mr. Bishop, the right side of the heart contained scarcely any blood; and in another case, communicated to me December, 1857, the only medical difficulty regarding death by drowning, presented itself in an emptiness or non-distension of the right cavities of this organ. The facts and observations accumulated by my friend Dr. Norman Chevers, of the Calcutta Medical Board, show that a full condition of the heart, although a common, is not an invariable concomitant of asphyxia, either from drowning or any other cause. ("Medical Jurisprudence for India," 1856, p. 441.) It has been elsewhere remarked, that the action of the heart continues after the stoppage of respiration, and that the period at which this organ ceases to contract is variable. Hence, in some cases there may be sufficient power in the right cavities to contract upon their contents, and to expel, more or less completely, the last traces of blood received by them from the body. Emptiness of the right cavities of the heart must not, therefore, be regarded as inconsistent with death from drowning; at the same time, it cannot be taken as a proof that the person has died from asphyxia. Dr. Riedell states that in half the number of instances which had fallen under his observation, the two sides of the heart contained equal quantities of blood; in the other half, the right side contained the larger proportion. In one case only the emptiness of the left side contrasted strongly with the fulness of the right.

A greater or less fulness of the vessels of the *brain* is described as one of the appearances met with in drowning; but this, when it exists, is probably a consequence of a congested state of the lungs. Some remarks have been already made on this subject, and from these it is evident that the state of the cerebral vessels can afford no presumption that death has taken place by drowning. In regard to the cases which I have had an opportunity of examining, the quantity of blood contained within the cerebral vessels has rarely been so great as to call for particular notice.

In examining the abdomen, it will commonly be found that the

stomach contains water, which appears to enter into this organ by the act of swallowing during the struggle for life. This may be salt or fresh, according to the medium in which the drowning has taken place. The quantity is subject to great variation; sometimes it is large, at other times small, and in some instances no water whatever is to be met with. The absence of water may probably indicate a rapid death, as there could have been no power to swallow. Orfila has remarked, that the mucous membrane of the stomach and bowels is occasionally much discolored in drowned subjects. He observed also, that when drowning took place while the process of digestion was going on, the mucous membrane of the stomach often had a pinkish-red, or violet-tint. When the dead body had remained a long time in water, this membrane was observed to acquire a deep violet or brown color. A knowledge of this fact may be of some importance in those cases in which a person is suspected to have been poisoned previously to submersion. It has been said that the diaphragm is generally much raised towards the chest; but this may depend on gaseous putrefaction, and the increase in the size of the abdomen by the formation of gas in the intestines. The urinary bladder in some cases contains urine; in others it is perfectly empty. Casper found it empty in one half of the cases which he examined. It is obvious that the state in which the bladder is found must depend on its condition at the time at which the drowning occurred. (See, in reference to the appearances in the drowned, a paper by Dr. Ogston, "Med. Gaz." vol. 47, pp. 763, 854, et seq.; also another by Dr. Riedell, "Med. Gaz." vol. 46, p. 478; and Casper, "Ger. Leich-Oeff.," vol. 1, p. 87; 2, p. 105; and "Klinische Novellen," 1863, p. 523.)

Was Death caused by Drowning?—For a correct solution of this question, it will be necessary to consider the appearances met with in the drowned, and to determine how far they are characteristic of this form of death. Among the *external* signs of drowning, when the body is seen soon after death, are paleness of the surface, a contracted state of the skin (cutis anserina), and the presence of a mucous froth about the nostrils and lips. The absence of these appearances, however, would not prove that the person had not been drowned; for if the body had remained some time in water, or if it had been long exposed to air before it was seen by a medical man, the skin would undergo various changes in its condition and color, and mucous froth would no longer be found adhering to the nostrils and lips.

State of the Skin.—The goose-skin or cutis anserina which is frequently observed in the drowned, shows that the skin possessed the living power of contractility at the time of immersion. Wagner suggests that the appearance might be produced in a dead body if thrown into cold water immediately after death, *i. e.* while the skin is warm. As none but assassins would be likely to resort to this proceeding, the objection would, if admitted, leave the fact of drowning still to be made out by an internal inspection. This contracted state of the skin could hardly be mistaken for a naturally rough or

horny skin, as suggested by Caspar. ("Ger. Leich.-Oeffn." vol. 1, p. 89.) As this condition of the skin is not invariably present, even in the recently drowned, and as it is observed chiefly in drowning during cold weather, its absence must not be taken to negative the hypothesis of drowning.

Substances grasped in the Hands.—Foreign substances, such as gravel, dirt, weeds, or grass, are sometimes found locked within the hands or lodged under the nails of drowned subjects. This fact may occasionally afford strong circumstantial evidence of the manner in which a person has died. If materials are found grasped within the hands of the deceased which have evidently been torn from the banks of a canal or river, or from the bottom of the water in which the body is found, we have strong presumptive evidence that the person died within the water. For although it is possible to imagine that the deceased may have struggled on the bank, and have been killed prior to submersion, yet in the value attached to this sign we are assuming that there are no marks of violence on the person, nor any other appearances about the body sufficiently striking to lead the examiner to suspect that death had occurred in any other way than by drowning. If the substance locked within the fingers or finger-nails is sand of the same character as that existing at the bottom of the river or pond, it is difficult to conceive any stronger fact to establish death from submersion. The abrasion of the fingers is a circumstance of minor importance; no value could be attached to this state of the fingers as an indication of a person having perished by drowning, unless it were in conjunction with the appearances above described. A witness would be constrained to admit, in many cases, that the fingers might become abraded or excoriated after death, or even before submersion; while in no case could he be called upon to make, in regard to substances found grasped within the hands, an admission which would invalidate the evidence deducible from this condition. This must then be regarded as a satisfactory proof of a person having been alive after his body was in the water. It is well known that when two or three are drowned by the same accident, they are not unfrequently found clasped within each other's arms; a fact which at once proves that they must have been living when submerged; so if a dead body is discovered still holding to a rope, cable, or oar, no further evidence is required to show that the deceased must have died from drowning.

The internal appearances upon which medical jurists chiefly rely as proofs of this kind of death are—first, water in the stomach; and secondly, water with a mucous froth in the air-passages and lungs.

1. *Water in the Stomach.*—Dr. Riedell found that in the majority of cases of drowning, water passed into the stomach. In animals previously killed, and placed for twenty-four hours in water with the mouth wide open, no fluid penetrated to the stomach. ("Med. Gaz.," vol. 46, p. 478.) Water commonly passes into the stomach of a living animal while drowning by the act of swallowing. It has been observed, that when an animal is stunned prior to submersion, water does not pass into the gullet, and when syncope occurs none

will be found. As a proof that its entrance into this organ depends on the act of swallowing, it may be stated that the quantity in the stomach is greater when an animal is allowed to come frequently to the surface and respire, than when it is maintained altogether below the surface. The power of swallowing is immediately suspended on the occurrence of asphyxia, and in this way we may satisfactorily account for the difference observed in the two cases. The water thus found is in variable quantity: and there are some cases of drowning in which water is *not* present in the stomach. It was found by Dr. Ogston, of Dundee, in five cases out of seven. (Ed. "Med. and Surg. Jour.," Jan. 1837.) Water does not readily penetrate into the stomach of a body which has been thrown in after death; the sides of the gullet applying themselves too closely to each other to allow of the passage of fluid. If putrefaction has advanced to any extent, some water may enter; but a medical man will easily judge, from the general state of the body, how far this process may have been concerned in the admission of fluid into the stomach and intestines. Orfila has suggested that water may be found in the stomach of a person apparently drowned, in consequence of this liquid having been drunk by the deceased, or artificially injected by another into the stomach after death. It is difficult to conceive under what circumstances the latter objection could be made, or what purpose it would answer; but in relying upon the presence of water in the stomach, it may be admitted that the deceased may have drunk water before his body was submerged. The mere discovery of water in the stomach, except under circumstances to be presently mentioned, is not, therefore, a necessary proof that it has been swallowed during the act of drowning.

It is of course presumed that the liquid contained within the stomach is of the same nature as that in which the body is immersed; for it is possible that fresh water may be found in the stomach of a person drowned in salt water, and in such a case it would be obviously improper for a medical witness to affirm from the mere presence of water, that the person had died where his body was dicovered. If the water contain mud, straw, duckweed, moss, or any substances like those existing in the pond or river where the drowning occurred, is a proof, when the inspection is recent, of its having been swallowed by a living person. The absence of water from the stomach cannot, however, lead to the inference that the person has not died from drowning, because in some instances it is not swallowed, and in others it may drain away and be lost after death before an inspection is made.

2. *Water with Mucous Froth in the Air-Passages and Lungs.*—If the body is carefully removed from the water, and is examined soon after removal, these appearances, which furnish satisfactory evidence of death from drowning, will be found. Dr. Reidell regards the presence of a mucous froth as a constant sign of this kind of death. In all his experiments and observations he states that he found a frothy fluid in the windpipe, bronchi, and lungs: after death it gradually disappears from the air-tubes by exosmosis, but not from the

lungs. The fluidity of this froth is, he contends, a distinctive character of death from drowning, and is not met with in any other case ("Med. Gaz.," vol. 46, p. 478.) The presence of a frothy fluid would undoubtedly show that liquid, from some cause, had penetrated into the air-passages; and when taken in conjunction with the presence of water in the substance of the lungs, it may be considered to furnish conclusive evidence of death from drowning. On the other hand, its absence does not necessarily prove that a person has not died from this cause. If none is found in a body recently after death, this may have been the result of syncope or apoplexy, and there may have been no convulsive efforts at breathing prior to death. A mucous froth may not be found when the body has remained for a long period in the water after death, since by the free passage of this fluid into and out of the air-tubes, the froth, although formed in the first instance, may have disappeared. If, after removal from the water, the body is exposed to the air for several days before it is examined, it is rare that this appearance is seen. The mucous froth may have been formed in the windpipe, but it may have entirely disappeared.

3. *Water and Foreign Substances in the Lungs.*—It has been elsewhere stated that in the act of drowning, water is drawn with considerable force into the lungs, by violent attempts at inspiration. The aspiratory force thus exerted by the lungs is considerable. It has been found that when the heads of animals are plunged below mercury, some of this fluid metal, in spite of its density, is actually drawn into the lungs, and globules of it have been found in the air-cells. A fortiori, this takes place in a greater degree with water which is forcibly drawn into, and permeates the spongy texture of the lungs, rendering death more rapid and recovery more difficult than in other forms of asphyxia. This aspiratory force of the lungs has been measured, and is found, in small animals, to be equal to raising a column of mercury four inches in height. Not only is water thus drawn in, but sand, mud, weeds, or other substances floating in it, are also carried into the air-tubes and cells of the lungs. When the water is mixed with weeds or mud, and water presenting the same admixture is found in the throat and stomach, this is strong evidence that the body has been plunged into the medium when the power of breathing and swallowing still existed, and hence that the deceased has been drowned. All attention to the condition of the stomach and lungs together, will therefore be of importance in cases of alleged child-murder by drowning, since it may aid in proving or disproving the charge.

When a dead body is thrown into water, and has remained there some time, water, with fine particles of sand, mud, or weeds, may pass through the windpipe into the lungs, and there be deposited. [In the previous edition of this work, the following case is mentioned: "Dr. Chevers, of Calcutta, was required to examine the body of a child found in a tank at a distance from the house of the parents. The internal appearances showed that the child had died by drowning. The air-passages contained green vegetable matter, and the right air-tube was almost completely filled with so large a

portion of an aquatic weed doubled together, that it appeared astonishing how such a body could have passed into the windpipe. It was proved that no weed of this kind grew in the tank where the body was found. Further inquiry led to the discovery that the body of the boy had been found by a woman in a tank near his house, in which the weed found in the air-passages grew abundantly. This female carried the corpse to the more distant tank which belonged to a person against whom she bore a grudge!"—P.] Water under these circumstances, however, does not penetrate into the substance of the lungs as by aspirations during life, and the amount which passes through the chink of the glottis is small. If simply an after-death effect, the water is found in the larger air-tubes unaccompanied by mucous froth. In most cases, however, the effect of aspiration, as a result of living power, is so manifest, that the examiner can have no difficulty in forming an opinion.

A medical man may be occasionally required to express an opinion on the length of time that may have elapsed since the act of drowning, when the dead body of a person has been discovered in water. The rules which have been suggested for the guidance of a medical witness on these occasions are open to so many exceptions, owing to the different degrees in which putrefaction takes place in bodies exposed under similar circumstances, that they are but of little service as a basis for medical evidence.

From these observations it will be perceived that the only characters on which reliance can be placed, as medical proofs of death from drowning, are—first, the presence of a mucous froth in the windpipe and air-tubes; secondly, of water in the air-tubes and air-cells of the lungs; and thirdly, of water in the stomach. An early inspection of the body may thus enable a medical man to come to a satisfactory conclusion that death was or was not caused by drowning. The longer this inspection is delayed, the more ambiguous the evidence becomes, since the froth slowly disappears from the air-tubes, while water may penetrate into the lungs and stomach. The great cause of failure in obtaining medical proofs of drowning is generally the unavoidable delay before an inspection is made.

If, in examining a body taken from water, we find upon it marks of violence, or severe internal injuries sufficient to destroy life, there is strong ground for suspicion. Why the body of a person who has really died from natural causes should be afterwards thrown into water it would not be easy to explain upon any hypothesis of innocence, but we can readily appreciate the motive when murderous violence has been used. After the lapse of five or six weeks, especially if the body has been removed from the water for the greater part of that period, none of the usual appearances of drowning will be met with: in the present day no practitioner would think of seeking for evidence under such circumstances.

In consequence of the uncertainty attendant on the appearances of drowning, barristers have considerable advantage in cross-examining those medical witnesses who appear to support the theory of the prosecution that death took place from this cause. Legal ingenuity

is here often strained to the utmost, to show that there is no certain *sign* of drowning, and therefore that the deceased must have died from some other cause. The general impression among non-medical persons appears to be that, whether in drowning or suffocation, there ought to be some particular *visible change* in some part of the body to indicate at once the cause of death; but it need hardly be said that this notion is founded on false views, and if the reception of medical evidence on the cause of death be made to depend on the production of some such positive and visible change of structure, then it would be better at once not to place the parties charged with the crime upon their trial, because it could never be proved against them. A medical inference of drowning is founded upon a certain series of facts, to each of which, individually, it may be easy to oppose plausible objections; but taken together they furnish evidence as strong as is commonly required for proof of any other kind of death.

In death from drowning a question respecting the *specific gravity* of the human body may incidentally arise. In the healthy living body this is made up of the combined specific gravity of its different parts; so that, as in all heterogeneous solids, it is a complex quantity. In the first place, about 72 per cent. of the weight of the body consist of water—hence the question of specific gravity can refer only to the remaining 28 per cent. of dry solids. The only part of the body which is lighter than water is fat. The specific gravity of this is 0.92, and it is calculated that the proportion of fat in an adult is about five per cent. of the weight of the body, or one-twentieth part. The specific gravity of muscle is 1.085, of brain 1.04, of the soft organs generally 1.05, of the lungs containing air 0.94, and of bone, the heaviest part of the body, 2.01. The lightness of the fatty portions is more than counterbalanced by the weight of the skeleton (about ten-and-half pounds in the male, and nine pounds in the female), so that the naked human body, placed on water, has a slight tendency to sink. This tendency diminishes just in proportion to the quantity of the body immersed; because all those parts which are out of water, not being supported by water, become so much additional absolute weight to the portion immersed. Hence the frequent cause of death by drowning. An inexperienced person exhausts himself by exertion, raises his arms continually out of the water, and as often sinks, owing to their weight having just so much effect on his body as if a leaden weight had been suddenly applied to his feet to sink him. When the *whole* of the living body is immersed, the specific gravity, owing to the expansion of the chest, differs so little from that of water, that a very slight motion of the hands or feet will suffice to keep a person on the surface. The head, owing to the weight of the bones of the skull, has always a tendency to sink below the level of water, and muscular force is required to keep it above the surface. There are two circumstances which cause the specific gravity of the body to vary. If the quantity of *fat* is proportionally large, it will be diminished; and such a person will float more readily than another in an opposite condition. On the other hand, a large proportion of *bone* renders a person

heavier than his bulk of water; and his body will sink more rapidly than that of another. These two modifying causes of buoyancy are liable to constant variation: hence the different accounts given by experimentalists relative to the specific gravity of the human body. The bodies of women are, cæteris paribus, of less specific gravity than those of men: the skeleton is smaller, and there is a greater proportion of fat—hence they more readily float. Infants and young children float with the greatest ease: the quantity of fat is usually in large proportion, and the bones are light—the earthy matter being not yet fully deposited. Thus, in infanticide by drowning, the body of the child rises very speedily to the surface—if, indeed, it does not remain altogether upon it.

There are some other points to be considered in relation to the buoyancy of the living human body. 1. *Respiration.*—It is the fact of the lungs being filled with air that gives the general lightness to it. If these organs are emptied while the face is under water and the person cannot inhale again, the body remains specifically heavier than water and will sink. Hence it follows that, cæteris paribus, a person with a large and capacious chest floats more easily than one whose chest is small and contracted. Hence, also, in a living person the body has a tendency to rise out of water during inspiration, and to sink during expiration—the quantity of water displaced under these two opposite conditions of the respiratory organs being very different. The entrance into water with the chest nearly emptied as the result of a loud scream or shriek, is very unfavorable to the buoyancy of the body. The fact of *clothes* being on the person may also make a difference—either, from their nature, in serving to buoy up the body, or from their weight to sink it more deeply. Women are sometimes saved from drowning by reason of their clothes floating, and thus presenting a large surface to the water; it is partly owing to this circumstance that the bodies of drowned women often remain floating on the water immediately after death.

It may be laid down as a general rule, that the recently *dead* body unclothed is, when left to itself, *heavier* than water, and sinks when immersed. The expulsion of air from the lungs and their penetration by water, combined with the fact that the bones and all the soft parts, excepting the fat, are of greater specific gravity than water, offer a sufficient explanation of the sinking. After a variable period, generally not more than a few days, the body will rise again to the surface, and float. The period of its rising will depend—1st, on the specific gravity of the body; 2dly, on the nature of the water, whether salt or fresh; 3dly, on the access of heat and air in facilitating putrefaction. If the gases generated find an escape, the body will sink; more gases may form, and then it will again rise, so that the sinking and rising may become alternate phenomena. A small quantity of air collected in the abdomen, as a result of putrefaction, will suffice for the floating of the body. Thus, taking the specific gravity of the dead body at 1.08 to 1.1, it would require but little air to keep it at or near the surface of the water. But a dead body, whether death has been caused by drowning or not, may not sink at

all, owing to some one of the counteracting causes above mentioned. Several cases are reported in which the bodies of persons recently drowned have floated.

Marks of Violence on the Drowned.—The chief inquiry with regard to marks of violence on the bodies of the drowned is whether they have resulted from accident or design. In forming an opinion, a witness must give due value to the accidents to which a body floating loosely in water may be exposed. Bruises or ecchymoses of considerable extent are sometimes seen on the drowned, when the bodies have been carried by a current against mechanical obstacles in a navigable river or canal. If the deceased fell from a considerable height into water, his body in falling may have struck against a rock or projection, and have produced extensive marks of violence. Dead bodies taken out of wells often present considerable marks of violence of a vital character when the deceased persons have fallen in accidentally, or have thrown themselves in intentionally. The presence of these marks must not create a hasty suspicion of murder. It is manifestly impossible to lay down any specific rules for forming a decision in cases of this kind, since, probably, no two instances will be met with which will be perfectly similar in the details. In clearing up these doubtful points, everything must depend on the tact and experience of the practitioner who is called upon to conduct an investigation. The first question which he has to determine is, whether the injuries on the body were produced before or after death. (See WOUNDS, ante, p. 212.) If after death then they ought to be obviously of accidental origin. Accidental violence may sometimes be of a serious nature, so serious that a practitioner might well doubt whether it did not indicate that the deceased had been violently treated prior to submersion. If a dead body were taken out of water, with one or both limbs dislocated, or the vertebræ of the neck fractured, and a surgeon was asked whether such injuries could be accidental and coincident with or consequent on drowning, the answer would probably be in the negative. But an instance has occurred in which both arms were accidentally dislocated at the shoulders in the act of drowning as the result of a fall into the water from a great height.

The great point with regard to all marks of violence on the drowned, is to throw light upon the questions—1st, whether drowning was really the cause of death; and 2dly, whether, if so, the act was the result of accident, suicide, or homicide. This last question does not concern a medical witness so much as a jury, who will determine it from the facts, medical and general, proved before them.

There is one case, of rare occurrence, in which a practitioner would be apt to be misled by trusting to appearances found on the drowned. If a dead body were removed from water with a deep ecchymosed circle round the neck, evidently produced by a cord or ligature, but no traces of which could be found, it is not improbable that a suspicion would be at once raised that deceased had been murdered by strangulation, and the body afterwards thrown into water. A case occurred some years since in which a mark was pro-

duced on the neck of a woman who was accidentally drowned, as a result of the compression produced by the string of her cloak. Marks, resembling those of strangulation, have been produced on the necks of dead bodies floating in water, where they have been driven by a strong current against the stumps of trees or other obstacles in the stream.

It might be said, that in cases of this description circumstantial evidence would commonly show how the mark had originated. In admitting the truth of this observation we must remember that circumstances, as matters of proof, do not always present themselves to our notice, or occur to our judgment, at the precise time that the law stands most in need of them. While, then, we use great caution in drawing an inference when there are such strong grounds for suspicion, we should not neglect to examine carefully the most trivial appearances.

Fractures are not often met with in the drowned as the result of accident. Certain fractures likely to be followed by immediate death may forbid the supposition of their having occurred after drowning, and a careful examination of the body may show that they were not likely to have arisen from accident at or about the time of submersion.

The medico-legal question has arisen whether fractures of the *vertebræ of the neck* can occur from accident alone, at or about the time of drowning. In August, 1858, a gentleman, in jumping from a bathing-machine head-foremost into water more shallow than he had expected, caused a fracture and displacement of the cervical vertebræ, which led to death. Mr. South quotes the case of a man who threw himself into a river to bathe from a height of seven or eight feet, the water being only three feet deep. He rose to the surface, but fell back senseless. When he recovered his consciousness, the account he gave of the accident was, that he felt his hands touch the bottom of the river, but to save his head drew it violently back, upon which he lost all consciousness. He died in about ten hours, and on examination the skin of the back of the neck was much ecchymosed, the interspaces of the muscles were gorged, and the spinal canal was filled with blood. The body of the fifth vertebra of the neck was broken across about the middle of its depth, and the two pieces were completely separated from the lateral parts. As there was no mark of contusion or dirt on the head, Reveillon, who reports the case, believes that the fracture arose from muscular action, and not from a blow received by striking the bottom: but this is doubtful. In another instance related by Mr. South, a sailor jumped headlong into the sea to bathe, a sail being spread three feet below the surface. He immediately became motionless, and died in forty-eight hours. The fourth and fifth vertebræ of the neck were found extensively fractured, and the spinal marrow was crushed and lacerated. ("Chelius's Surgery," part 6, Fractures.) In this case the fracture must have resulted from contact with the water or the sail; but as the latter was freely floating, this would be a yielding

medium: hence this serious injury may occur accidentally in cases in which we might not be prepared to look for it.

Was Drowning the Result of Homicide, Suicide, or Accident?—Although the question whether the act of drowning was the result of suicide or murder properly falls within the province of a jury, there are certain points in relation to it which require to be noticed by a medical witness. In the first place, it is not to be imagined that an examination of the body will develop any differences in either of the three supposed kinds of death. So far as the phenomena of drowning are concerned, they are the same, and they are accompanied by the same appearances after death in each case. In drowning which is accidental or suicidal it is not usual, as it has already been observed, to meet with marks of violence on the person, except such as are purely of *accidental origin*, and have commonly been produced *after death.* In accidental drowning this is almost a constant rule; but if the person has fallen from any height, his body may be injured in the fall, either by projections on the banks of a river or canal, or by mere concussion on the water; allowance for either of which we must be prepared to make, according to the situation of the spot from which the person is supposed to have fallen.

It is calculated that in England drowning is the cause of death in nearly one-half of all suicides; but this of course will vary according to localities. In *suicidal* drowning we have a difficulty to encounter which we do not meet with in that which is *accidental.* A man may have attempted suicide by some other means previously to throwing himself into the water; thus then, besides the accidental violence of accidental drowning, we may meet with violence on the person evidently indicating wilful perpetration. What is the nature of this violence? Is it to be defined? Can it always be distinguished from that which is positively *homicidal?* The answers to these questions must depend on the circumstances proved in each case.

Drowning in Shallow Water.—Homicide has been sometimes presumed from the peculiar circumstances under which a body has been discovered. Thus, for instance, it has been a debated question, whether a person intent on suicide can voluntarily drown himself in *shallow* water, as in a bath, by turning upon his face and retaining this position with his mouth below the level of the water. This question has been long since settled in the affirmative by the occurrence of well-authenticated cases. It appears to have been raised originally on the theoretical view, that the resolution of a suicide would fail him in such a situation, and that, having the means of escape, he would lose no time in extricating himself. It need hardly be stated that the mere immersion of the mouth in water not more than a few inches deep, will produce all the phenomena of death by drowning, with the exception that little or no water would probably be found in the stomach. A man may thus die in two or three minutes. Devergie mentions an instance which occurred in May, 1833, where a man was found drowned in a small stream, his face towards the ground, and his head just covered by the water, which was not more than a *foot* in depth. On dissection there were all the

appearances of drowning present, and a large quantity of sand and gravel was found occupying the windpipe and smaller air-tubes. (Op. cit. vol. 2, p. 332.) A case is mentioned by Dr. Smith, in which a woman committed suicide by breaking a hole in the ice of a pond, during the winter, and thrusting her head into the water, the rest of her body being out. A man was found dead with his face downwards in a small stream of water only six inches deep. The water was so shallow that it did not cover the deceased's body or his head. There was clear evidence that this was a case of suicidal drowning. Although a person has for a short time the power of removing from a position in which he must speedily die, that power is soon lost. If the mouth is kept below water by a strong voluntary effort for half a minute or longer, the unaërated blood is circulated through the brain, and the person becomes powerless, so that his fate is not now in his own hands. Lunatics and other persons have thus destroyed themselves in shallow baths, although left unwatched by the attendant for only four or five minutes. The discovery of dead bodies under these circumstances is, therefore, quite consistent with suicide. but it does not necessarily prove that the act was suicidal. It cannot be denied that a person if young or enfeebled by disease or age may be held by others in such a position sufficiently long to produce death from drowning, but if he is capable of making resistance, we ought to find some marks of violence on the limbs or body. So, again, such a position is by no means incompatible with accidental drowning; and on this it may happen that a medical practitioner will be called to express an opinion. A man in a state of deep intoxication, or when suddenly attacked by syncope, epilepsy, or apoplexy, may fall with his face in a gutter, ditch, or small pool of water; he may die in this position, not having the power to extricate himself. Even marks of violence on the body must not be too hastily construed into proofs of murder. Not long since a case of this description gave rise to a trial for murder in one of our midland counties. A man was found dead with his face in some melted snow, and there were several severe contusions on his body. The evidence showed that, after a quarrel he had left a neighboring inn much intoxicated; and it was rendered extremely probable that he had perished accidentally on his way home. There was no reason to suppose that he had been murdered. Infants, from mere helplessness, may be drowned under similar circumstances; but at the same time an assassin may select this mode of destroying life in order to give the appearance of accident.

Ligatures on the Hands and Feet.—When a drowned body is removed from water with the hands or the hands and feet bound with cords, it is usually considered that we have therein presumptive evidence of homicide; but numerous cases are recorded in which suicides have actually bound themselves in this manner or have attached heavy weights to their bodies, before throwing themselves into water, for the express purpose of preventing any chance of their escaping death.

HANGING.

CHAPTER XXXVI.

CAUSES OF DEATH.—DEATH FROM THE SECONDARY EFFECTS.—POST-MORTEM APPEARANCES.—MARK OF THE CORD OR LIGATURE.—WAS DEATH CAUSED BY HANGING?—HANGING AFTER DEATH.—SUMMARY OF MEDICAL EVIDENCE.—MARKS OF VIOLENCE ON THE HANGED.—WAS THE HANGING THE RESULT OF ACCIDENT, SUICIDE, OR HOMICIDE?—THE POSITION OF THE BODY.

Cause of Death. Asphyxia.—By hanging we are to understand that kind of death in which the body is wholly or partially suspended by the neck, and the constricting force is the weight of the body itself, while in strangulation the constricting force is due to some other cause. In both cases death commonly results from *asphyxia* (p. 55), although this must depend in a great measure upon the position of the ligature on the neck, as well as on the degree of pressure produced. If the cord is loose, or applied to the upper part of the neck, a small quantity of the air may still reach the lungs, and then the cerebral circulation may become interrupted by the compression of the great vessels of the neck. In this case apoplexy of the congestive kind is induced, and operates as the immediate cause of death. It is easy to conceive that there may be a mixed condition of asphyxia and apoplexy, and according to the observations of Professors Casper and Remer this is actually met with in a great number of cases of death from hanging.

It has been observed in the execution of criminals, that death takes place at different intervals of time after suspension. This difference is probably dependent on the greater or less degree of constriction produced by the ligature. If the rope should press upon the larynx or above this organ, the closure of the air-passages will not be so complete as if pressed upon the windpipe immediately below the cricoid cartilage. A slight degree of respiration might in the former case continue for a short interval, by which the life of a person would be prolonged, while in the latter, death would be immediate. If the windpipe is in part ossified, the pressure of the ligature is less perfect, and death will then take place more slowly. Louis found that an occasional cause of death in hanging was a displacement of the second vertebra of the neck whereby the spinal marrow was suddenly compressed. As a general rule this cause of death is only likely to be observed in corpulent or heavy bodies,

when a long fall is given to the cord, and when much violence has been at the same time employed by the executioner. Fractures of the vertebræ may occur and prove fatal by compressing the spinal marrow. Death may also be caused by the effusion of blood on the spinal membranes (sheath), thereby giving rise to fatal compression. This is likely to happen when the head falls or is bent suddenly backwards, so that the weight of the body is supported on the back of the neck.

Death from hanging appears to take place very rapidly, and without causing any suffering to the person. It is observed, that in those who are criminally executed there are often violent convulsions of the limbs and trunk. There is no reason, however, to believe that the individual suffers pain, any more than in the convulsions of an epileptic fit. On recovery there is an entire loss of consciousness of pain in both cases. The circulation of dark-colored blood through the brain and spinal cord may account for these effects. Efforts to inspire are made for one or two minutes after the closure or compression of the windpipe. The diaphragm and intercostal muscles act spasmodically, but no air enters the lungs; and it is probable that in the act of hanging, part of the air contained in the organs is convulsively expelled. When the suspension of the body has only continued a few minutes, it has often been found impossible to restore life; and indeed the period at which resuscitation may take place varies according to circumstances. Supposing the hanging to be unattended with violence to parts about the neck, some persons might be resuscitated after five minutes' suspension or longer, but then it has been observed that they have subsequently died from secondary causes affecting the brain and nervous system. Others, again, may not be recovered when they are cut down immediately after suspension—a fact which depends probably on the different degrees to which asphyxia or apoplexy has extended. When the ligature is so placed as to press on the windpipe below the larynx, insensibility and death are almost instantaneous.

We learn from those who have been resuscitated, as well as from experiments performed by persons upon themselves, that the insensibility of asphyxia comes on in the most insidious manner in death from hanging, and that a slight constriction of the windpipe will speedily produce loss of consciousness and muscular power. ("Devergie," 2, 370.) The only symptoms of which the hanged persons have been conscious, were a ringing in the ears, a flash of light before the eyes, then darkness and oblivion. The only profitable inference in a medico-legal view, which can be drawn from observations of this kind is, that asphyxia is not only rapidly induced, but that it supervenes under circumstances where it would not be generally expected to occur—*i. e.*, when the weight of the body is in great part supported. M. Fleischmann found that a cord might be placed round his neck between the chin and os hyoides, and tightened either laterally or posteriorly without perceptibly interrupting respiration; but while the respiratory process was thus carried on, his face became red, his eyes prominent, and his head felt hot. These symptoms were followed by a sense of weight, a feeling of incipient

stupefaction, and a hissing noise in the ears. On the occurrence of this last symptom, the experiment, he says, should be discontinued, or the consequences may be serious! His first experiment on himself lasted two minutes; but in the second, owing to the cord by its pressure more completely interrupting respiration, the noise in the ears appeared in *half a minute*. When the pressure was applied on the windpipe the effect was *instantaneous*, but when on the cricoid cartilage it was not immediate. If it was applied between the os hyoides and the thyroid cartilage, or on the os hyoides itself, the period during which a person could breathe was extremely short; and this result was more striking when the act of expiration was performed at the moment of applying the pressure. The death of *Scott*, the American diver, in January, 1840, shows how readily asphyxia may be induced by a slight compression of the throat, even when a person might be supposed to have both the knowledge and the power to save himself. This man was in the habit of making public experiments on hanging, and had frequently before gone through them without danger; but on the last occasion, it is probable that a slight shifting of the ligature from under the jawbone caused so much compression on the throat between the chin and larynx, as speedily to produce asphyxia. No attempt was made to save him until it was too late, and he was not brought to a hospital until thirty-three minutes had elapsed. He was allowed to hang *thirteen minutes*—the spectators thinking that the deceased was only prolonging the experiment for their gratification! The very insidious and painless manner in which a person who is suspended passes from life into death, is also well illustrated in the report of the case of *Hornshaw*, published by Dr. Chowne. ("Lancet," April 17, 1847, p. 404.) This man was on three occasions resuscitated from hanging—a feat which, like Scott, he had performed in London for public gratification. He stated that on the last occasion he lost his senses almost at once; it seemed as if he could not get his breath, and that some great weight was attached to his feet: he felt that he could not move his hands or legs to save himself, and that the power of thinking was gone. It is not improbable that many persons have thus lost their lives by privately attempting these experiments, and their cases have been wrongly set down to acts of suicide. There is reason to believe that boys have thus frequently but unintentionally destroyed themselves, from a strange principle of imitation or curiosity.

Post-mortem Appearances.—The *external* appearances met with in the hanged have been generally taken by medico-legal writers from those seen in the bodies of persons who have been criminally executed, or who have been violently hanged. Thus among them are the following: Lividity and swelling of the face, especially of the lips, which appear distorted; the eyelids are swollen, and of a bluish color; the eyes red, projecting forwards, and sometimes partially forced out of their cavities; the tongue enlarged, livid, and either compressed between the teeth or sometimes protruded: the lower jaw is retracted, and a bloody froth sometimes exists about the lips

and nostrils. There is a deep and ecchymosed impression around the neck, indicating the course of the cord, the skin being occasionally excoriated; laceration of the muscles and ligaments in the hyoideal region; laceration or contusion of the larynx, or of the upper part of the windpipe. There are also, commonly, circumscribed patches of ecchymosis varying in extent, about the upper part of the body and the upper and lower limbs, with a deep livid discoloration of the hands; the fingers are generally much contracted or firmly clenched, and the hands and nails, as well as the ears, are livid; the urine and feces are sometimes involuntarily expelled at the moment of death. Such appearances will rarely be found in those cases of suicidal hanging which are likely to come before a medical practitioner. In these the face is generally pale, and the mark on the neck is a simple depression in the skin, usually without ecchymosis, and acquiring a horny or parchment color only after some time. Esquirol found, in one instance, that when the body was examined immediately after death, the face was not livid; but it first began to assume a violet hue in eight or ten hours. He thought that when the cord was left round the neck the face would be livid, but if removed immediately after suspension, pale. This view is not, however, borne out by observation. The tongue is not always protruded. Devergie found that there was protrusion of this organ in eleven cases out of twenty-seven. This protrusion was formerly supposed to depend upon the position of the ligature: thus it was said, when this was below the cricoid cartilage, the whole of the larynx was drawn upwards, and the tongue carried forwards with it, while when above the os hyoides the tongue was drawn backwards. The protrusion or non-protrusion of the tongue does not depend upon any mechanical effect of this kind, but simply upon congestion; for it is occasionally met with thus protruding in cases of drowning and suffocation. Besides the protrusion has not been found to have any direct relation to the position of the ligature.

There is another appearance on which a remark may be made—namely, the state of the hands. As a general rule, in violent hanging or strangulation, the hands are clenched. This appearance may not always be found, as it may exist and be destroyed before the body undergoes medical inspection. When the constriction of the neck is produced suddenly, and with great violence, we may expect to meet with it. Thus it is found in the cases of executed criminals, and in strangulation attended with great violence, whether the act be due to homicide or suicide. In cases in which the constriction is gradually produced, the clenched state of the hands may not be found. Convulsions generally attend violent hanging or strangulation. The influence of these on the attitude or dress may not be apparent unless the body be sitting or lying.

Internally, we meet with the appearances of asphyxia—*i. e.* engorgement of the lungs and venous system generally with dark-colored fluid blood: the lungs otherwise present no particular appearances. The right side of the heart, and the great vessels connected with it, are commonly distended with blood. But when the

inspection has been delayed for several days, this distension may not be observed. The mucous membrane of the windpipe is more or less congested, and is sometimes covered with a fine bloody mucous froth. This may be owing to imperfectly obstructed respiration, and to spasmodic efforts at breathing. The vessels of the brain are commonly found congested; and in some rare instances it is said extravasation of blood has been met with on the membranes or in the substance of the organ. Effusion of blood is, however, so rare that Remer found this appearance described only once among one hundred and one cases; and in one hundred and six cases recorded by Casper it was not found in a single instance. In one case of death from hanging, Sir B. Brodie found a large effusion of blood in the substance of the brain, and he refers to another case in which there was a considerable effusion between the membranes. ("Lectures on Pathology," p. 58.) The venous congestion of the cerebral vessels is, however, rarely greater than in other cases of asphyxia, and is probably dependent on the degree in which the lungs have become engorged. In most instances there is increased redness of the substance of the brain, so that, on making a section of the hemispheres a greater number of bloody points (puncta cruenta) than usual will appear. The kidneys have been found much congested. A more important circumstance has been noticed by Dr. Yelloly—namely, that in examining the stomachs of five criminals who have been hanged, he found great congestion in all, while there was blood coagulated upon the mucous membrane in two. Such an appearance might, it is obvious, be attributed in a suspicious case to the action of some irritant substance. (See "Ann. d'Hyg." 1830, p. 166; 1835, p. 208; 1838, p. 471.) In the case of *Good*, who was executed for murder some years since, the stomach was found on inspection to present over its whole surface a well-marked redness, resembling the effect produced by an irritant poison. The redness was especially observed at the pyloric end, where it assumed a somewhat striated character. A drawing representing the appearance of the interior of the stomach is preserved in the Museum collection of Guy's Hospital. In a case examined by Mr. Stuart, of Azimghur, in 1854, the stomach and intestines, especially the inner coat of the former, were much congested and inflamed, as if the man had died from poisoning. The contents of the stomach were analyzed, but no poison was found. Dr. Chevers, who quotes this case, states that he has more than once verified Dr. Yelloly's observation, and has found the mucous membrane of the stomach much congested in death from hanging. ("Medical Jurisprudence for India," p. 397.)

The most striking external appearance, however, is the *mark* produced on the neck by the ligature. The skin is commonly depressed, and sometimes ecchymosed, but rarely throughout its whole extent: it is frequently free from all traces of discoloration as the result of ecchymosis, the skin in the depression being then hard, brown, or of a *parchment color* and consistency; or there may be only a thin line of blue or livid color in the upper or lower border of the depression, and chiefly in front. The course of the mark is gene-

rally oblique, being lower in the fore-part than behind, and it is often interrupted. It is most commonly above the larynx. If the noose should happen to be in front the mark may be circular, the jaw preventing the ligature from rising upwards in the same degree before, as it commonly does behind. The mark is generally single, but we may meet with it double, as when the ligature has been formed into two circles or loops previously to its application. Its other characters will depend upon the nature of the ligature employed. Thus a large and wide ligature rarely produces ecchymosis—the mark is wide and superficial; but a small ligature produces a narrow and deep impression, sometimes accompanied with laceration of the cuticle and effusion beneath the skin.

The ligature or cord should always be examined for blood, hair, or other suspicious substances.

It was formerly believed that the impression on the skin produced by the cord was invariably discolored from effusion of blood, or ecchymosis; but more correct observation has shown that this condition is an exception to the general rule. When ecchymosis does exist, it is commonly superficial and of slight extent. There is rarely, if ever, effusion of blood in the cellular tissue. In the bodies of persons who have been criminally executed, it is not unusual to find ecchymosis, but even here it is not always present, or only in front of the neck. Dr. Croker King, in examining the neck of an executed criminal, did not discover the smallest effusion of blood in the course of the cord, although in this case the body had been allowed to fall from a height of seven feet and a half, with a fearful jerk. ("Dublin Quarterly Journal," No. 35, Aug. 1854, p. 86; and "Cases of Ruptured Intestine," 1855, p. 12.) The theory of the production of ecchymosis has been carried so far that a *livid mark* in the course of the cord was formerly said to be the best criterion for distinguishing hanging in the living from hanging in the dead body! This statement, however, is not in accordance with facts. In a large number of cases the skin, instead of being blue or livid, or presenting an effusion of blood in the cellular tissue beneath, is hard, and of a yellow color, resembling parchment. It has that appearance which the cutis commonly assumes when the cuticle has been removed from it two or three days; and, on dissecting it off, the cellular membrane beneath often appears condensed and of a silvery whiteness. Dr. Chevers states that in cases of death from hanging he has not met with any ecchymosis in the skin along the course of the mark. (Op. cit. p. 406.) In some instances the mark has presented itself simply as a white depression; this has been chiefly observed in fat subjects. The observations of Casper on this point are as follows: out of seventy-one cases there was no ecchymosis produced by the cord in fifty, and thus in two-thirds of all the cases examined, it was entirely absent. He also found that there was no difference in the appearance whether the ligature was removed sooner or later after death.

Injuries to the muscles and deep-seated parts of the neck are, of course, only likely to be seen when considerable violence has been

used in hanging. In one or two instances the lining membrane of the common carotid artery has been found lacerated. Congestion and swelling of the genital organs in both sexes have been set down among the common consequences of hanging—but many observers have not met with these conditions; and it is doubtful whether, unless the body is examined speedily after suspension, any marked difference would be discovered. A more common sign, perhaps, is the discharge of the spermatic secretion in the male, by a spasmodic action, at the moment at which death takes place. It appears to me that no reliance can be placed upon evidence derivable from this appearance, and yet it has sufficed to give rise to a violent controversy among French medical jurists. ("Ann. d'Hyg." 1839, vol. 1, pp. 169, 467; vol. 2, p. 393; 1840, vol. 2, p. 314.) Unless death from hanging is strongly established by other facts, neither the examination of the linen of the deceased, nor the application of the microscope to the mucous fluid found in the urethra, would be of any practical value in elucidating the question—at least to the satisfaction of an English jury.

The following may be regarded as a summary of the appearances in hanging, when death has really taken place from asphyxia. The countenance is either livid or pale, the eyes are prominent, the tongue congested and occasionally protruded, the lower jaw retracted: the skin is covered with patches of cadaveric lividity, the hands are livid and clenched—an oblique mark is found on the neck —sometimes presenting traces of ecchymosis: commonly, however, the skin is only brown in color and hardened. The larynx, windpipe, and subjacent muscles are lacerated, depressed, or discolored. The vessels of the brain are congested, as well as those of the lungs and the right cavities of the heart. A mucous froth tinged with blood is occasionally found in the windpipe. These appearances will of course be modified, or they may be altogether absent, when death has arisen from a disorder of the cerebral circulation, or from injury to the spinal marrow, either by effusion of blood, fracture, or displacement.

[Dr. John Packard, of Philadelphia, has kindly furnished me with the following notes of the *post-mortem* examination in the case of Anton Probst, convicted of the murder of the Dearing family, and executed June 8, 1866.

"The examination was made about twenty-nine hours after the hanging.

"The face was mottled purplish, in a very marked degree, by post-mortem change. The under or posterior portion of the body and extremities was also mottled by hypostatic congestion, but less so than the face. The eyes were not protruded, nor had the tongue been bitten.

"The mark of the cord was very distinct on the neck, except at a point a little below and *in front* of the left ear, where the knot had been; here the skin was unchanged. The mark was purplish brown.

"On the right side, the sterno-cleido-mastoid muscle was ruptured nearly through, apparently just where the cord had pressed it.

"Both the greater cornua of the hyoid bone were broken through obliquely, near their origins. The laryngeal cartilages, as well as the great vessels of the neck, were intact.

"No fracture or dislocation of the cervical vertebræ existed, nor was there any discoverable lesion of the spinal cord. (The thorax and abdomen having been opened before the sawing of the cranium, the state of the brain is not accurately known.)

"The *heart and great vessels were empty; the lungs quite free from congestion.* All the abdominal viscera were healthy.

"No evidences of priapism or sexual excitement existed.

"Death seemed to have been caused by pressure upon the great nerves (the pneumogastric and phrenic) distributed to the organs of circulation and respiration."—P.]

Was Death caused by Hanging?—When a person is found dead and his body is suspended, it may be a question whether death really took place from hanging or not. In investigating a case of this kind, it is necessary to draw a distinction between the *external* and *internal* appearances of the body. The former alone can assist us in returning an answer to this question: the internal appearances of the body can furnish only the general signs of asphyxia, and enable us to say whether any latent cause of death existed or not.

The Mark of the Cord.—Among the external appearances it is chiefly to the *mark* produced by the cord on the neck that medical jurists have looked for the determination of this question. As the form, position, and other characteristics of this mark have been already described, it will now be necessary to allude to it only as furnishing evidence of life at the time of its production. It has been stated, that so far from being constantly livid or ecchymosed, this condition is, in reality, not seen in more than one-half of the cases which occur. But admitting that we find ecchymosis in the course of the ligature, are we always to infer that it must have been applied while the person was living? There are cases which show that the presence of active life is not necessary for the production of ecchymosis in the mark: and from the experiments of Devergie, it would appear that if a body is hanged immediately or a short time *after death*, an ecchymosed mark may be produced on the neck by the ligature. (Op. cit. vol. 2, p. 408.) If a few hours were suffered to elapse, so that the body had become cold before suspension, no ecchymosis was produced by the ligature. Professor Vrolik of Amsterdam found, however, that a slightly livid mark was produced on the neck of a dead body, which had been suspended after the lapse of *an hour* from the time of death. (Casper "Woch." Feb. 1838.) Hence this condition of the mark in a body found dead merely indicates, either that the deceased must have been hanged while living, or very soon after the breath had left his body. It would be for a jury to decide between these two assumptions; and to consider why, when a man had really died from any other cause, his body should have been hanged in secrecy immediately after death. (See "Ann. d'Hyg." 1842, vol. 1, p. 134.) The circumstance that an ecchymosed mark may be produced by suspending a recently dead

body bears out the statement of Merzdorff—that it would be in the highest degree difficult, if not utterly impossible, to determine medically, from an inspection, whether a man had been hanged while living, or whether he had been first suffocated, and his body suspended immediately after death. In making this admission it is proper to bear in mind, that that which is difficult to a conscientious medical jurist in confining himself to the medical facts, is often easily decided by a jury from these as well as the general evidence afforded to them.

Sometimes, besides ecchymosis, there are abrasions of the skin in the course of the cord, and these are known to have been produced during life by the effusion of blood which accompanies them. Devergie never met with this appearance in the hanging of a dead body even when the hanging took place immediately after death. The discovery of effused coagula in or about the spinal column would render it probable that the deceased must have been hanged while living. Such marks of violence are, however, rare in cases of hanging: and when they are found, it might be assumed that the effusion and coagulation of blood had been caused by violence offered to the neck *immediately after death;* but this assumption may be met by the question already suggested—namely, why death by hanging should be simulated in the body of a person who is alleged to have died from another cause!

With regard to the other, or more common kind of mark in suicidal hanging, it can scarcely be said to furnish any evidence in relation to the question which we are here considering. The depression may be hard and brown, although it does not usually acquire this color until some hours have elapsed after death; for it appears to depend simply upon a desiccation or drying of that portion of the skin which has been compressed by the ligature. Sometimes the upper and lower borders only of the depression present a faint line of redness or lividity; and it is worthy of remark, that when the ligature presents any knots or irregularities, those portions of skin which sustain the greatest compression are white, while those which are uncompressed are found more or less ecchymosed. It is in this manner that the form of a ligature is sometimes accurately brought out. It may be remarked of these depressions produced by the cord, that the characters which they present are the same whether the hanging has taken place during life or soon after death:—the appearances may be similar in the two cases.

The experiments performed on dead bodies by Casper and other observers, show that the ordinary or non-ecchymosed mark caused by hanging during life may be produced by a ligature applied to the neck of a subject *within two hours* or at a much longer period after death—consequently the presence of this mark on the neck is no criterion whether the hanging took place during life or after death. The changes in the skin beneath the mark are also destitute of any distinctive characters: there is the same condensation of the cellular membrane whether the hanging has occurred in the living or dead.

These changes are the simple result of a physical cause—mechanical compression.

Summary of Medical Evidence.—From the foregoing considerations, we draw the conclusion that there is no distinctive sign by which the hanging of a *living* person can be determined from an inspection of the dead body. All the external marks may be simulated in a *dead* body, and the internal appearances furnish no characteristic evidence whatever. Still, when the greater number of the signs enumerated are present, and there is no other satisfactory cause to account for death, we have strong reason to presume that the deceased has died from hanging. We must not, however, abandon medical evidence on these occasions, merely because plausible objections may be taken to isolated portions of it. Facts may show that, however valid such objections may be in the abstract, they are wholly inapplicable in the concrete, *i. e.* to the particular case under investigation. Perhaps the greatest medical difficulties occur in reference to cases of *suicide*, owing to the slight appearances which attend this form of death; but on these occasions moral and circumstantial proofs are so generally forthcoming, that a medical inspection of the body is scarcely ever deemed necessary by a coroner. If, then, it is admitted by a medical jurist, that it is not in all cases possible to distinguish hanging in the living from hanging in the dead, the admission must be considered as having reference to cases wherein persons destroy themselves, and not to cases in which they are destroyed by others. Even if a doubt were raised in any particular instance, it is more than probable that circumstantial evidence would furnish data for a decision, and thus satisfactorily make up for the want of strict medico-legal proofs. If when we found a deeply ecchymosed or livid mark around the neck of a dead subject, we said, all other circumstances being equal, that the person had most probably died from hanging, we should not be departing from a proper discharge of our duty; since, although it is medically possible that such a mark may, by a certain amount of skill, be produced after death, yet as it would be only a murderer who would think of hanging up a recently dead body to simulate suicide, so it is certain that in this case there would be some obvious indications of another kind of violent death about the person. The absence of these, and the presence of ecchymosis in the course of the cord, would, it appears to me, leave the question of hanging during life decidedly settled in the affirmative. Some caution should be used in expressing an opinion that hanging took place after death, in cases in which there is no ecchymosis in the seat of the ligature; because, while such a opinion would be generally correct, it might in some instances lead to the concealment of the real mode of death. Many facts already adduced show that numerous cases of hanging during life would be pronounced to be cases of hanging after death if the absence of ecchymosis were taken as a criterion. The mere discovery of marks of violence about the person is not of itself sufficient to rebut the presumption of death from hanging on these occasions. The violence should at least be of such a nature as to account for

the immediate destruction of life, or it can throw no light upon the question whether the person might not have died from hanging, in spite of the marks of maltreatment found upon the body.

If, in reference to a body found hanging, a medical jurist should assert that death had *not* taken place from this cause, this would be tantamount to declaring that the deceased must have been murdered; because it is difficult to suppose that any one but a murderer would have a reasonable motive for hanging up a recently dead person. This hanging after death has been frequently carried out with the view of concealing the real mode of death, and of making the act appear to be one of suicide.

Marks of Violence on the Hanged.—The presence of marks of violence on the body of a hanged person is important, and it will therefore be proper for a witness to notice accurately their situation, extent, and direction. Having satisfied himself that they must have been received during life, he will have to consider the probability of their being of accidental origin or not. These marks of violence are not always to be regarded as furnishing unequivocal proofs of murder; for it is possible that they may have been produced by the person himself before hanging, and not succeeding in committing suicide by these attempts, he may subsequently have resolved to accomplish his purpose by suspending himself. Let the witness duly reflect on these circumstances before he allows his opinion to implicate any suspected individual; let him consider that a hanged subject may bear the marks of a gunshot wound, his throat may be cut, his person lacerated or disfigured, and yet, before a suspicion of homicide is allowed to be entertained, it ought to be clearly shown that such injuries could not by any probability, have been self-inflicted. The importance of observing caution in such a case will be still more manifest when there is no ecchymosis produced by the cord, and the face does not present the usual appearances of hanging.

Marks of violence on a hanged subject may in some cases be fairly ascribed to *accident.* If the person has precipitated himself with any violence from a chair or table in a furnished apartment, he may have fallen against articles of furniture, and thus have caused lacerations and bruises, especially on the limbs or body. The rope may have given way, and the person, in falling, have injured himself; but he may afterwards have had resolution enough to suspend himself again. Such an occurrence may be rare; but when the presence of these injuries is made to form the chief ground of accusation against another person, their possibly accidental origin ought not to be lost sight of by a considerate witness. If we suppose the deceased to have been hanged in a state of intoxication or stupefaction, medical evidence alone will rarely suffice to determine the question of homicide or suicide. The absence of all marks of violence from the body might actually lull suspicion. It is proper on these occasions to look to the hands of the deceased, since it is with these that a person defends himself; and, unless taken unawares, it is almost certain if the hanging were homicidal, that there would be traces of violence on these parts. The clothes would be torn and discomposed, and the

whole appearance of the deceased would be that of one who had done his utmost to resist a violent murderous attack. There might be some injuries which could not be attributed to accident under the circumstances. Among these we may enumerate fractures, dislocations, deeply penetrating incised and gunshot wounds. Now the question is—Do these serious injuries necessarily establish homicidal hanging? The answer must be in the negative; although when fractures or dislocations exist, there are strong grounds for suspicion. ("Ann. d'Hyg." 1842, vol. 1, p. 160.)

Suicides frequently make attempts on their lives by various means, as by poison, the use of razors, knives or pistols, and still retain power to hang themselves. Such cases as these are generally determined by circumstantial evidence. A suicide may attempt to destroy himself with a knife or pistol; he may fail in the attempt, and ultimately hang himself. Any description of wound, provided it be such as to allow of a person surviving a sufficient time, may thus be found on a hanged subject, and yet constitute no proof whatever of murder. If there are circumstances about the wound or injury which show that it could not have been self-inflicted, this of course will affect the conclusion; but when such circumstances are not met with, a cautious medical jurist should say, in answer to inquiries respecting the origin of these wounds, that they may have been inflicted either by the deceased himself or by another. The medical facts of the case might be consistent with either view. In one instance of suicidal hanging there were lacerated wounds upon the head, and a handkerchief was found blocking up the mouth. Of course if, in any case, the wounds or injuries are of a decidedly mortal nature, and have probably caused death, the presumption of murder is very strong; for who but a murderer would suspend the dead body of a person so wounded, *immediately* after death? ("Ann. d'Hyg. 1835, vol. 2, p. 410.)

Was the Hanging the Result of Accident, Homicide, or Suicide?—Most medical jurists have passed over the subject of *accidental hanging*, probably believing it to be impossible. In the sense commonly implied by the term it is certainly unusual, but although rare, it is a possible occurrence. Circumstantial evidence will always suffice for the discrimination of accidental hanging; and we have therefore merely to inquire whether, when the body of a person is found hanging under circumstances which do not allow of the suspicion of accident, the act has been the result of *suicide* or of *homicide*. A medical witness must remember that this is strictly a question for the jury. It is not for him to say whether a man has hanged himself or been hanged by others, but merely to state, when required, those *medical circumstances* which support or rebut one or the other presumption. The jury, under the direction of the judge, will arrive at a conclusion, from the whole of the evidence medical and non-medical.

It has been truly observed, that of all the forms of committing murder, hanging is one of the most difficult, and it is therefore but seldom resorted to. In most cases when a person has been hanged by others, it has been after death, in order to avert a suspicion of

homicide. Hence the discovery of a person hanging affords primâ facie evidence of suicide, supposing it to be rendered absolutely certain that death has taken place from this cause. We must, however, admit that a man may be murdered by hanging, and that the appearances about his body will not afford the smallest evidence of the fact. The circumstances which will justify a medical jurist in making this admission are the following: First, when the person hanged is feeble, and the assailant a strong healthy man. Thus a child, a youth, a female, or a person at any period of life, worn out and exhausted by disease or infirmity, may be destroyed by hanging. Secondly, when the person hanged, although usually strong and vigorous, is at the time in a state of intoxication, stupefied by narcotics, or exhausted by his attempts to defend himself. Thirdly, in all cases murder may be committed by hanging when many are combined against one person. With these exceptions, then, a practitioner will be correct in deciding, in a suspected case, in favor of the presumption of suicide. Unless the person labored under stupefaction, intoxication, or great bodily weakness, we must expect to find in homicidal hanging, marks of violence about the body; for there are few who would allow themselves to be murdered without offering some resistance—notwithstanding the assertion of Mahon, that some might submit to this mode of death with philosophical resignation when they saw that resistance was hopeless!

Some medical jurists have thought that the *mark* left by the cord on the neck would serve as a criterion of murder on which we might depend. Thus it has been said, if the mark is circular and situated at the lower part of the neck it is an unequivocal proof of murder. In hanging, the mark of the cord is generally oblique, being higher at the back part of the neck, in consequence of the loop formed by it yielding more in this direction than in front. But it is an error to suppose that this want of obliquity in the impression can afford any evidence in favor of the act having been homicidal. Its form will depend in a great degree upon the fact of the body being supported or not, for it is the weight of the body which causes its obliquity; it will also depend on the manner in which the cord is adjusted. A case of suicidal hanging is related by Orfila, in which the mark of the cord extended horizontally round the neck from behind forwards. (Méd. Lég. tom. 2, p. 376.) The slip-knot of the cord was in front of the neck, and it is obvious that when the cord is thus adjusted by a suicide, there will be scarcely any obliquity in the depression produced by it. Equally ill-founded is the assertion, that the existence of *two impressions* on the neck affords positive proof of homicide. One of these impressions may be at the lower part of the neck, and circular—the other at the upper part and oblique: it is therefore contended, that the deceased must have been strangled in the first instance, and afterwards hanged. The possibility of a prior attempt being made by a suicide to strangle himself, and thus produce the mark, is not adverted to. "Si l'on observe les deux impressions," says Mahon, "l'assassinat est alors parfaitement prouvé." It is fortunate that there are facts on record to oppose to this very positive

statement. One of the first cases reported by Esquirol is that of a female lunatic who committed suicide by hanging herself, and on whose neck two distinct impressions were seen—the one circular, the other oblique! These appear to have arisen from the cord having been passed twice round the neck, the body being at the same time partially supported. In some instances a presumption of homicidal interference may exist if there are two distinct impressions, but it cannot be admitted that they establish the fact of murder.

The injury done to the neck by the cord or ligature can rarely afford any clue to the manner in which hanging took place, unless the circumstances under which the body is found, favor the presumption of homicide or suicide. Thus the laceration of the muscles and vessels of the neck, the rupture of the windpipe and the displacement of the larynx, the stretching of the ligaments of the spine, and effusion of blood on the sheath of the spinal marrow, may be observed in suicidal as in homicidal hanging. The presumption, however, is obviously in favor of the latter, when these violent injuries are found to be accompanied by fracture or displacement of the vertebræ of the neck, and the body of the deceased is not corpulent, the ligature by which he is suspended is not of a nature to produce them, and the fall of the body has not been great.

A much-disputed question has arisen in medical jurisprudence, whether the vertebræ of the neck can become fractured or displaced in *suicidal* hanging. Most medical jurists deny the possibility of this accident occurring—the displacement or fracture of these vertebræ being rarely observed, even in criminal executions, when the greatest violence has been used by the executioner. So far as I am aware, there is no case of *suicide* on record in which such an injury to the neck has been found.

Circumstantial Evidence.—In all doubtful instances we should not lose sight of moral and circumstantial evidence. We should ascertain whether the individual had been previously disposed to commit suicide or not: we should observe whether the doors and windows of the apartments had been secured on the inside or on the outside; whether the dress of the deceased is at all torn or discomposed, or his hair dishevelled; whether the attitude of the body is such as to show interference after death; whether there are marks of blood about the body, or the ligature, or in the room; whether the hands are bloody, or present marks of wounding or struggling; whether the rope or ligature corresponds to the impression seen around the neck; and lastly, whether the cord is of sufficient strength to support the weight of the deceased. The strongest evidence of homicide is often found in the attitude and the state of the dress of the dead body: it may or may not indicate interference or change after death irreconcilable with the supposition of death from suicide or accident. On this point the minutest circumstance may become of considerable importance as medical evidence. When there are indications of violent struggling, the dress may be found disordered, unless it has been smoothed or arranged by the murderer after the death of the deceased. There may of course be no evidence of disorder or dis-

composure of the dress, in the case of a female, when the body is freely suspended. These points fall, it is true, more within the province of the officers of justice than of a medical practitioner; but the latter is generally the first who is called to see the deceased, and therefore, unless such facts are noticed by him on his visit, they may remain altogether unknown. The medical opinion of the actual cause of death, however, should be based only on *medical* facts, but circumstantial evidence has on various occasions assisted in clearing up a doubtful case. Louis states that on removing the body of a man who was found hanging, the rope was observed to be stained with blood. This simple circumstance led to further investigation, by which it was discovered that the person had been murdered, and his body afterwards suspended. The presence of marks on the neck indicative of strangulation, such as the cord was not likely to have produced, may lead to a suspicion that the hanging followed death.

The Position of the Body.—Lastly, it has been contended that the *position* of the dead body may serve to distinguish suicidal from homicidal hanging. This point was strenuously argued on the investigation which took place relative to the death of the *Prince de Condé* in 1830. This case involves two glaring errors in reference to medical evidence on death from hanging: 1st, that a person cannnt die from hanging when the body is in any way supported, and therefore that murder must have been perpetrated; 2dly, that in all cases of death from hanging, the mark produced on the neck by the cord or ligature must be discolored or ecchymosed. If not ecchymosed, it is assumed that death must have taken place from some other cause, and the body have been afterwards suspended for the concealment of crime. It is scarcely necessary to state that these propositions are utterly inconsistent with well-known facts. Since this trial, many cases have been recorded in which death has taken place from hanging when the feet were in contact with the ground, or the persons were almost sitting or recumbent: they may be regarded as mixed cases of hanging and strangulation. The reports of eleven cases of suicidal hanging or strangulation which I have collected within a few years, give the following results: in three the deceased were found nearly recumbent; in four, in a kneeling posture—the body being more or less supported by the legs—and in four the persons were found sitting. In one case the deceased, a prisoner, was found hanging to the iron bar of the window of his prison, which was so low that he was almost in a sitting posture.

Remer found that among one hundred and one cases of suicidal hanging, in fourteen the body was either standing or kneeling, and in one instance it was in a sitting posture. Dr. Duchesne has published an account of fifty-eight cases in which the suspension of the body was partial—the feet or trunk being more or less supported. Twenty-six of these cases are new. The reporter draws the conclusion that *suicide* by hanging is consistent with *any posture* of the body, even when resting upon the two feet. ("Ann. d'Hyg.," Oct. 1845, vol. 2, pp. 141 and 346.) Further evidence need not be adduced to show how unfounded is that popular opinion which would attach the idea

of homicidal interference to cases in which a body is loosely suspended, or in which the feet are in contact with any support. We ought rather to consider these facts as removing a suspicion of homicide; for there are probably few murderers who would suspend their victims, either living or dead, without taking care that the suspension was not partial but complete. Besides, the facts of many of these cases are readily explicable: thus, if the ligature is formed of yielding materials, or if it is only loosely attached, it will yield to the weight of the body after death, and allow the feet to touch the floor, which they might not have done in the first instance. If there is reason to believe that the body has not altered its position after suspension, we must remember the facility with which insensibility comes on, and the rapidity with which death commonly ensues in this form of asphyxia. (See p. 338, also "Med. Gaz." vol. 44, p. 85.)

The Limbs Secured in Suicidal Hanging.—One or two points are worthy of notice in relation to this medico-legal question. The hands or legs, but more commonly the former, have been found tied in cases of undoubted suicidal hanging ("Ann. d'Hyg." 1832, vol. 1, p. 419); and yet it has been gravely debated whether it was possible for a person to tie or bind up his hands, and afterwards hang himself! It is unnecessary to examine the ingenious arguments which have been urged against the possibility of an act of this kind being performed, since they are refuted by well ascertained facts.

It has also been a debated question, whether *corporeal infirmity*, or some peculiarity affecting the hands, might not interfere with the power of an individual to suspend himself. This question can be decided only by reference to the special circumstances of the case. In the case of the *Prince de Condé*, it was alleged that he could not have hanged himself, in consequence of a defect in the power of one hand; it was said that he could not have made the knots in which the cravats, by which he was suspended, were tied. Allegations of this kind appear to have been too hastily made in this and other instances. A determined purpose will often make up for a great degree of corporeal infirmity; and unless we make full allowance for this in suicide, we shall always be exposed to error in drawing our conclusions. Blindness is no obstacle to this mode of perpetrating suicide; and in reference to *age*, suicide by hanging has been perpetrated by a boy of nine and by a man of ninety-seven years of age.

[Some very important observations and experiments with reference to the eyes of persons executed by hanging, were made at the recent execution of Anton Probst, by an eminent oculist, Dr. E. Dyer, of this city, who has very kindly furnished me with the following article upon the subject:—

"Fracture of the crystalline lens, as a result of death from violent hanging, has, I believe, never been noticed. The following case and experiments show that it is possible, and that it has probably been overlooked in many cases where post-mortem examinations have been made:—

"Anton Probst was hung in Philadelphia, June 8th, 1866, æt. 24. Weight, 174½ lbs. The drop was three feet; length of cord five feet. There were no convulsions. Previous to the execution both eyes were examined carefully with the ophthalmoscope, and were found normal. Thirty-five minutes after the drop fell the eyes were again examined with the ophthalmoscope by an electric light (charcoal points). In the right eye there was seen a horizontal line running across the lens; it was not sharp, but from it minute lines ran up and down, some longer and some shorter. It gave exactly the appearance of a crack in a clear cake of ice. As the eyeball was rolled downwards it was evident that there was a crack or rupture in the crystalline lens, which extended from the anterior capsule backwards to the middle of the lens. It had a remarkable opalescent or iridescent appearance. The anterior capsule was ruptured. This fracture was about a line below the horizontal diameter of the lens. In the left eye the same appearances were observed, but in a less degree. The capsule was evidently ruptured, but the rupture of the lens substance did not extend so deep. The eyes were removed and carefully dissected. All the observations made with the ophthalmoscope were entirely corroborated. The capsule of the right eye was broken from one edge of the lens to the other, and the lens itself was broken open to the centre. The left capsule was ruptured, and in the lens substance the rupture extended about a line backwards.

"Three large dogs were hung in the following manner: The rope was adjusted around the neck and made fast to a cross-beam. A man held the dog up to the beam and let him fall, following him with his hands, and as the rope became taut, the force was continued by the man's pressing the dog down with all his force. This added at least twenty pounds to the weight of the dog. All the dogs weighed over thirty pounds. Dog No. 1 died without struggles. Both lenses were fractured. Dog No. 2 died hard, and with convulsions, which lasted 8–10 minutes. No lesion of either lens was observed. Dog No. 3 died with a few spasms. The right lens was fractured; the left was intact.

"It will be observed that one man and three dogs were hung—four subjects in all. In three out of the four fracture of the lens was found. In two of the four, in both eyes, and in one in a single eye only. The fracture was most marked on the side opposite the knot. Of the eight eyes in these four subjects, five showed a fracture of the capsule of the lens and the lens substance itself in a greater or less degree. For a more detailed account of these cases see 'New York Medical Journal,' vol. iii., and 'Transactions of the American Ophthalmological Society,' third year."—P.]

STRANGULATION.

CHAPTER XXXVII.

CAUSE OF DEATH.—APPEARANCES AFTER DEATH.—WAS DEATH CAUSED BY STRANGULATION, OR WAS THE CONSTRICTION APPLIED TO THE NECK AFTER DEATH?—MARKS OF VIOLENCE.—ACCIDENTAL, HOMICIDAL, AND SUICIDAL STRANGULATION.

Strangulation.—Cause of Death.—Hanging and strangulation are usually treated together, and some medical jurists have admitted no distinction in the meaning of these terms. In hanging the phenomena of asphyxia takes place in consequence of the *suspension* of the body, while in strangulation asphyxia may be induced not only by the *constriction* produced by a ligature round the neck independently of suspension, but by the simple application of *pressure*, through the fingers or otherwise, on the windpipe. M. Tardieu considers that the two modes of death should be kept distinct. The external and internal appearances in some respects differ; and while the proof of death from hanging leads to the strongest presumption of suicide, the proof of death from strangulation is equally presumptive of murder. (*Sur la Strangulation*, "Ann. d'Hyg." 1859, vol. 1, p. 107.) This medical jurist defines "strangulation to be an act of violence, in which constriction is applied directly to the neck, either around it or in the fore-part, so as to prevent the passage of air, and thereby suddenly suspending respiration and life." This definition obviously includes hanging, and every person who is hanged may be said to be strangled; but while there is only one method of producing death by hanging, there are various methods of producing death from strangulation. A person may be strangled by the use of a cord, band, or ligature drawn tight round the neck, or by manual violence to the front of the neck, whereby respiration is prevented. The *cause* of death is asphyxia or apnœa. The rapidity with which it takes place will depend on the degree and situation of the pressure, and the completeness with which the act of breathing is obstructed.

M. Faure applied a ligature forcibly and suddenly to the neck of a middle-sized dog. For fifty-five seconds the animal did not appear to suffer; but he suddenly became violently agitated, his body stiffened, and he rolled convulsively on the ground. A bloody froth issued from his nostrils and throat, and he made frequent and violent efforts to respire. In three minutes and a half he was dead. In a second experiment an elastic tube was introduced into the windpipe,

which admitted of being gradually closed by pressure. The animal could bear the pressure up to the reduction of one-half of the calibre of the tube; but beyond this he suffered greatly, and when the pressure was increased he had convulsions. The dog died, in great suffering, before the tube was completely closed. ("Ann. d'Hyg." 1859, vol. 1, p. 122.) It is probable that human beings die more quickly than animals, especially from the effects of manual strangulation. A sudden and violent compression of the windpipe renders a person powerless to call for assistance and give alarm, and it causes almost immediate insensibility and death, without convulsions. When a ligature or bandage is used the pressure is not so complete, and death takes place more slowly with convulsive movements. The circulation of dark-colored blood continues for a short interval (about four minutes), as in other cases of asphyxia. Owing to this the face and lips, in accidental strangulation, have been observed to acquire a dark leaden hue. This arises partly from the arrest of the current of venous blood as the result of compression of the vessels, and partly from the circulation of unaerated blood. There is a fair chance of recovery if the cause of constriction is removed, and air is permitted to have access to the lungs within a period of five minutes: this is on the assumption that no great mechanical injury has been done to the neck.

In the act of strangulation a much greater degree of violence is commonly employed than is necessary to cause death; and hence the marks produced on the skin of the neck will be, generally speaking, much more evident than in hanging, where the mere weight of the body is the medium by which the windpipe is compressed.

Post-mortem Appearances.—The appearances after death are similar to those of hanging, but the injury done to the parts about the neck is commonly greater. *Externally.*—If much force has been used in producing the constriction, the windpipe, with the muscles and vessels in the fore-part of the neck, may be found cut or lacerated, and the vertebræ of the neck may be fractured. The face is commonly livid and swollen, the eyes wide open, prominent, and congested, and the pupils are dilated. The tongue is swollen, dark-colored, and protruded; it is sometimes bitten by the teeth, and a bloody froth escapes from the mouth and nostrils. The principal external signs of strangulation are seen in the marks on the neck produced either by a cord or manual pressure. M. Tardieu has described another appearance which might be overlooked. This consists in the presence of numerous small spots of ecchymosis upon the skin of the face, neck, and chest, as well as in the conjunctivæ or membranes of the eyes. These parts present a dotted redness, which has, however, been met with in other cases besides death from strangulation. ("Ann. d'Hyg." 1859, vol. 1, p. 125.)

The mark on the neck when a ligature has been used is commonly described as a depression, wide but not deep, and corresponding in its characters to the form and thickness of the ligature and the mode in which it has been secured. Too much importance must not be attached to this supposed correspondence when the ligature is not

forthcoming. In a case of accidental strangulation which I saw in November, 1864, the mark round the neck presented the appearance which might be expected from the use of a narrow cord. But, in this instance, a soft silk neckerchief was the means of constriction, and the peculiar narrowness of the mark on one side, was owing to the great tightness with which it had been drawn. The mark or impression produced by a ligature is generally circular, from the mode in which the pressure is produced. It may be situated at any part of the neck, but it is more commonly below the windpipe. In manual strangulation the marks of bruising and ecchymosis will be in the front of the neck, chiefly about the larynx and below it. The circular direction of the mark produced by the ligature is not an absolute indication that strangulation has taken place without suspension of the body, since cases of hanging have occurred in which a circular mark has been observed; and it is possible that some degree of obliquity may occasionally exist in the course of the depression produced by a ligature in strangulation. A medical jurist ought, therefore, to weigh all the facts connected with the position of the body, and the nature and direction of the ligature, before he forms an opinion, from the appearances presented by the mark on the neck, whether the person has been hanged or not. Greater importance is to be attached to the lividity, ecchymosis, and abrasion of the skin in the course of the ligature, than to the circularity or obliquity of the depression produced by it. In the strangling of a living person by a cord, it is scarcely possible that a murderer can avoid producing on the neck marks of severe injury, and in the existence of these we have evidence of the violent manner in which death has taken place. On the other hand, a person may be strangled, and yet the ligature, in consequence of its being soft and of a yielding nature, will not cause a perceptible depression or ecchymosis—scarcely anything more than a slight depression of the skin. If we except cases of suicide, such a condition must be rare; because assailants usually produce a much more violent constriction of the neck than is necessary to insure the death of a person. The general lividity of the body, contraction of the fingers, with clenching of the hands and swelling and protrusion of the tongue, are more marked in strangulation than in hanging. A thin mucous froth tinged with blood is occasionally found in the air-passages in both cases. In some instances of strangulation, it is said, blood has escaped from one or both ears during the act; but it is not a usual appearance. In two well-marked cases, in which I was consulted, the constriction of the neck was carried to a great degree, but there was no bleeding from the ears. Dr. Geoghegan has informed me that in one instance of *suicidal* strangulation which he examined, the constriction had been produced by a ribbon, and the violence applied was sufficient to produce bleeding from one ear: on dissection this was found to have resulted from a rupture of the membrane of the drum of the ear. There was no froth at the mouth or nostrils, and scarcely any lividity or swelling of the face. It was further observed that the mark on the neck, which was deep, almost

disappeared on the removal of the ligature. Sir W. Wilde, of Dublin, met with a case in which rupture of the membrane of the drum of the ear, with effusion of blood, was caused by strangulation. Bleeding from the ears, as a result of rupture of the membrane of the drum, must, however, be regarded as an exceptional appearance. Dr. Chevers does not mention it as having been noticed in any one of the numerous cases which he has collected in his Indian experience, although bleeding from the nostrils had been observed. ("Med. Jur. for India," 1856, p. 374.) Without rupture of the membrane of the drum, blood could not issue from the ears, and in order that this membrane should be ruptured, certain conditions not commonly met with may be required.

Internally.—In a case which occurred to Dr. Fuller, the body of a woman who had been homicidally strangled, presented the following appearances. The skin of the head, face, neck, and chest was darker than natural, and discolored underneath, particularly that of the scalp. The brain was suffused with dark blood, the lungs gorged and of a dark color, the bowels of a dusky-red color. The eyes were somewhat protruded and blood-shot, the lips swollen and darker than natural, the tongue slightly protruding between the teeth, and froth issuing from the nostrils. There was a mark of pressure behind the right ear, and other marks on the neck and chest, with discoloration of the muscles. (Chevers's "Medical Jurisprudence for India," p. 378; see also p. 387.) In a case of suicidal strangulation which occurred at Liverpool, in 1863, the body of the deceased was found—dead, cold, and rigid—about seven hours after he had been seen alive. The arms were fixed, and the hands raised a little above the breast. Round the neck, just below the cricoid cartilage, was a strip of the deceased's shirt, which had been used as a ligature; it was tied at the *back* of the neck. There was slight ecchymosis in the mark beneath. The skin of the face had a dark red-color, and was dotted with spots of a deeper red. The conjunctivæ were ecchymosed, and some blood had escaped from the nose. The brain was congested, and much fluid effused. The heart was empty; the lungs were deep in color (congested.) ("Lancet," Aug. 15, 1863, p. 183.) Many of the cases of strangulation which have presented themselves, have been too superficially examined. The most complete account of the appearances is that given by M. Tardieu. It is based on observations made in twenty-eight inspections. ("Ann. d'Hyg." 1859, vol. 1, p. 132.) The lining membrane of the larynx and windpipe was more or less reddened from congestion; sometimes it was livid or of a dark-red color. There was a bloody froth extending into the air-tubes. The state of the *lungs* was variable. Contrary to what is generally alleged to be characteristic of death by asphyxia, M. Tardieu found these organs to contain but little blood. Sometimes they were congested, at other times normal. There were ruptures of the superficial air-cells, producing patches of emphysema, which were seen singly or in groups. This condition, which was rarely absent, gave to the surface of the lungs the appearance of being covered with white layers of thin false membrane. When

these patches were punctured, air escaped. There was an absence of that condition of the lungs which he observed in death from simple suffocation, namely, dotted ecchymosis on the surface, immediately below the investing membrane (the pleura.) Throughout the substance of the lungs, effusions of blood varying in size were, however, generally found, provided an early inspection of the body was made. When some days had elapsed the lungs were found pale or congested, without any ecchymosed or mottled appearance. The ruptured air-cells with air beneath them, were still visible on the surface.

The *heart* presents no uniform condition; it is sometimes quite empty, and at others, it contains dark fluid blood. The *brain* is occasionally congested, but more commonly in its natural state. In one instance blood was found effused on the brain, but this is an unusual appearance. It has also been stated that a congested state of the sexual organs, both in males and females, was one of the appearances connected with strangulation, but this has not been confirmed by careful observers. M. Tardieu met with nothing to call for notice in this respect in the numerous cases which he examined. The involuntary discharge of feces, urine, and seminal fluid, described as one of the characters of death by hanging, may equally occur in death from strangulation. No importance can be attached to this as a sign of death from asphyxia in any form. It frequently occurs in sudden and violent death from any cause, and there are many instances of death from asphyxia in which it is not observed. Among the occasional appearances of violent strangulation may be mentioned injury to the windpipe and the muscles of the neck around it. One case in which the rings of the windpipe were split as a result of pressure, was communicated to me by Dr. Inman, of Liverpool. Several instances of laceration and rupture of the windpipe are quoted by Dr. Chevers. (Op. cit. pp. 381, 384.) In one instance the ossified thyroid cartilage had been broken and forced inwards, causing suffocation. In *Reg.* v. *O'Brien* (Liverpool Winter Assizes, 1857.) a case of alleged murder by strangulation, the cartilage of the windpipe was broken; and in the case of *Pinckhard* the windpipe was broken longitudinally. In reference to fractures of the larynx, see Casper, "Klinische Novellen," 1863, p. 497. In suspected homicidal strangulation it is always proper to examine the contents of the stomach for narcotic poison. In all cases, the cord or ligature, if forthcoming, should be carefully examined, in order to determine whether it bears upon it marks of blood, or whether hair or other substances are adhering to it. A portion of it should be reserved for the purposes of identity. In two instances of homicidal strangulation, the ligatures found round the dead bodies were proved to correspond with portions of the same material found in the possession of the persons who were charged with the murders. In removing the ligature from the neck, the precise mode in which it is tied or secured should be noticed, as this may be a fact of importance in reference to the allegation of suicide.

The medico-legal questions relative to strangulation are of the

same nature as those which have been already considered in treating of hanging. Thus, in examining the body of a person suspected to have been strangled, we may be required to answer the following question:—

Was death caused by strangulation, or was the constricting force applied to the neck after death? Medical jurists have hitherto considered that the *internal* appearances throw no light upon this question. This opinion probably arose from the fact that inspections have not been made until some days after death, when the peculiar appearances of strangulation have been merged in those of putrefaction. The state of the lungs, however, may be considered as characteristic. It would be impossible, by the application of a ligature round the neck of a dead body to produce rupture of the air-cells on the surface of the lungs, and effusions of blood in their substance. The state of the eyes and of the inside of the larynx and windpipe in persons who have been strangled could not be imitated by any constriction of the neck after death: no bloody mucous froth would be found in the wind-pipe or air-tubes. The *external* appearances have been considered to furnish more accurate means of distinction. Although the condition of the neck generally yields the strongest evidence, it will be proper to seek for that appearance of dotted redness or ecchymosis in the skin of the face, neck, and chest, described by Tardieu. The state of the eyes, as to their prominence and the congestion of the membranes, as well as the position of the tongue, should also be examined. The ecchymosis about the depression on the neck, when a ligature has been employed, with the accompanying swelling and lividity of the face, are phenomena not likely to be simulated in a dead body by the application of any degree of violence. When the constriction is produced within a few minutes after death, an ecchymosed depression may result; but it is improbable that there should be any lividity or swelling of the countenance. Prof. Casper found that when the constricting force was not applied to the neck until *six hours* after death, the mark indicative of vital strangulation could not be produced. It is doubtful whether it could be produced in the dead body an hour after death. The period cannot be determined with positive certainty: the results would probably vary, according to the rapidity with which the body had cooled.

It is difficult to conceive under what circumstances an attempt to simulate strangulation in a recently dead body could be made, unless for the purpose of throwing suspicion upon an innocent person connected with the deceased. When an individual has been murdered, it is not likely that the murderer would attempt to produce the appearances of strangulation on a body after death, under the idea of concealing his crime; for strangulation is in most cases an actual result of homicide, and is rarely seen as an act of suicide. In the absence of ecchymosis from the neck it will be difficult to form an opinion, unless from circumstantial evidence; but there may not be an ecchymosed *circle;* for a person may be strangled by the application of pressure to the windpipe through the medium of the finger-

nails, or of any hard or resisting substance. The ecchymosis in such a case will be in detached *spots* or *patches*. In the absence of all marks of violence round the neck, we should be cautious in giving an opinion which may affect the life of an accused party; for it is not probable that homicidal strangulation could be accomplished without the production of some appearances of violence on the skin over the larynx or windpipe. It is doubtful whether strangulation can ever take place without some mark being found on the neck indicative of the means used. The bare possibility of death being caused in this manner, without leaving any appreciable trace of violence, must be admitted; although the admission scarcely applies to those cases which require medico-legal investigation. Suicides and murderers generally employ much more violence than is necessary for the purpose of destruction—hence detection is easy. But if a soft and elastic band were applied to the neck with a gradually regulated force, it is possible that a person might die strangled, without any external sign being discovered to indicate the manner of his death. Indian surgeons inform us that the Thugs, and other robbers met with in India, are thus accustomed to destroy their victims with the dexterity of practised murderers. A case involving this question of strangulation without marks of violence on the neck, was tried in France, and from the medical evidence decided in the affirmative. ("Gaz. Med." 9 Mai, 1846, p. 375.) The medical witness should, however, be prepared to consider whether, in the absence of any mark, death might not have proceeded from another cause, and leave it to the authorities of the law to decide, from circumstances, in favor of or against the prisoner. There is, I conceive, nothing to justify a medical witness in stating that death has proceeded from strangulation, if there should be no appearance of lividity, ecchymosis, or other violence about the neck or face of the deceased. Congestion in the organs of generation is an appearance which it would not be safe to take as evidence of death from strangulation. The state of the countenance alone will scarcely warrant the expression of an opinion; for there are many kinds of death in which the features may become livid and distorted from causes totally unconnected with the application of external violence to the throat, unless accompanied by other well-marked signs of this mode of death. So, again, the eyes and tongue may be protruded as a result of putrefactive changes. Let not a witness, then, lend himself as an instrument for the condemnation of a person against whom nothing but a strong suspicion from circumstances may be raised, and where medical evidence is unable to furnish any distinct and conclusive proofs of death from strangulation. This caution is especially necessary in reference to the inspection of bodies which are in a state of putrefaction. A medical man, already provided with a theory of the cause of death by the discovery of a rope or other means of constriction, may easily arrive at the conclusion that death has taken place from strangulation. The absence of the usual confirmatory appearances in the body may be ascribed to decomposition, and those caused by decomposition may be set down to

strangulation. When there is obvious mechanical violence to the neck, such as fracture of the larynx or windpipe, with laceration of the muscles beneath—a visible depression, such as a cord, a ligature, or manual pressure would produce, a medical opinion may be fairly given in spite of putrefaction. But when, in a putrefied body, indistinct marks on the neck, or patches of discoloration, are relied upon as evidence of homicide, there is great risk of a serious medical mistake.

In cases of alleged drowning, it is sometimes the practice to ask a medical witness how far his opinion of the cause of death has been influenced by the discovery of the dead body in or near water. In cases of alleged strangulation a similar question may be put in reference to the discovery of a rope or ligature round the neck of the deceased, or in the apartment in which the dead body is found. A medical opinion should rest upon the clear and obvious effects produced on the neck, and on the structures below the skin, and not upon the mere presence of a cord or ligature. This might be put round the neck of a dead body, or near to it, for a malicious purpose. The act of strangulation should be, medically speaking, as distinctly provable without the production of a rope, as the act of stabbing without the production of the knife which inflicted the stab. If these principles are not strictly adhered to in practice, policemen would be as competent as medical experts to give evidence of the cause of death in cases of alleged strangulation.

It is scarcely necessary to state that all marks of violence on the body of a supposed strangled person should be accurately noted, as the questions respecting them, however slight the marks may be, are material. The witness will be expected to state whether they were inflicted before or after death: if before, whether they were sufficient to account for death, or whether they were such as to be explicable on the supposition of an accidental, suicidal, or homicidal origin. It should be observed whether there exist any morbid changes, sufficient to account for death, in either of the three great cavities of the body, as this kind of evidence may be essential in the progress of the case. In reference to females, whether children or adults, the surgeon should not neglect to examine the sexual organs—to ascertain whether there are any marks of violation. Cases have occurred in which rape has been perpetrated, and strangulation resorted to for the purpose of concealing the crime.

Strangulation, like hanging, is occasionally the result of *accident*, but the occurrence may be looked upon as rare. When the body is not suspended, it is commonly more in the power of a person to assist himself, and escape from the constriction: hence cases of accidental strangulation are less frequent than those of accidental hanging. As a general rule, cases in which the constriction of the neck has been produced by some accident, present no difficulty to a medical jurist, provided the relations of the body to surrounding objects and the compressing force have not been disturbed. Should it happen, however, that the body has been removed from the place in

which it was first discovered, or the ligature taken from the neck, we can only establish a presumption of accident from the description given.

When a charge of murder is instituted against a person, an attempt is not unfrequently made by counsel for the defence, to show the probability that the deceased might have fallen while in a state of intoxication, and have become accidentally strangled, either by a tight cravat or by some foreign substance exerting pressure on the windpipe. If we admit the possibility of an occurrence of this nature, we must not lose sight of the existence of other more probable modes of death, nor should we allow our judgment to be so swayed as to abandon what is probable for that which is merely possible.

Suicidal Strangulation.—This mode of suicide is of rare occurrence, and except under particular circumstances, impossible. The possibility of an individual strangling himself was for a long time denied by medical jurists; for it was presumed that when the force was applied by the hand, all power would be lost as soon as the compression of the windpipe commenced. This reasoning, which is physiologically correct, is, however, only applicable to those cases in which the windpipe is voluntarily compressed by the fingers. When a person determined on suicide allows the windpipe to be compressed, by leaning with the whole weight of his body on a cord passed round his neck and attached to a fixed point, he may perish in this manner almost as readily as if he had hanged himself; for insensibility and death will soon supervene. In the chapter on Hanging, it was stated that suicides were often found with their bodies in close contact with the ground; and cases are reported in which strangulation was accomplished, in the manner above described, while the suicide was in a sitting or kneeling posture (p. 351). On other occasions, the peculiar disposition or nature of the ligature has enabled a person bent on suicide to strangle himself without much difficulty. An instance is related by Orfila, in which two cravats, that were twisted several times round the neck of the deceased, who was discovered lying on his bed, had effectually served the purpose of self-destruction. ("Méd. Lég." vol. 2, p. 389.) Sometimes strangulation has been suicidally effected by a rough cord passed repeatedly round the neck, and tightened by being pulled with each hand. The number of coils would still cause some pressure to be exerted even when the grasp was relaxed by death. (See "Guy's Hospital Reports," Oct. 1851.) Other cases are related, in which suicides have succeeded in strangling themselves by tightening the ligature with a stick (see "Guy's Hospital Reports," Oct. 1851); or when the ligature was formed of thick and rough material, by simply tying it in a knot.

Although suicidal strangulation may be effected under unexpected circumstances, yet in a case of murder by strangulation, it would not be easy to simulate suicide: it would at any rate require great skill and premeditated contrivance on the part of a murderer, so to dispose the body of his victim, or to place it in such a relation to surround-

ing objects, as to render a suspicion of suicide even probable. Thus, if the cord or ligature should be found loose or detached—if the ecchymosis or mark in the neck should not accurately correspond to the points of greatest pressure—if, moreover, the means of compression were not evident when the body was first discovered and before it had been removed from its situation, there would be fair grounds for presuming that the act was homicidal. In those cases in which strangulation has resulted from a compression of the windpipe by the fingers, and where there are fixed ecchymosed marks indicative of direct manual violence, we have the strongest presumptive evidence of murder; for neither accident nor suicide could be urged as affording a satisfactory explanation of their presence.

Homicidal Strangulation.—Strangulation occasionally comes before our courts as a question of murder; and when a person has been tried upon a charge of this kind, the circumstances have been commonly so clear, as to render the duty of a medical witness one of a simple nature. When the cause of death is contested, or when it is contended in defence that the strangulation is suicidal, a medical witness must be prepared to give his reasons for affirming that the act was not done by the deceased himself. He must be prepared to meet and explain the differences between the case under investigation, and those reported cases which are admitted to have been suicidal. The attitude of the body, the condition of the dress, the means of strangulation, the presence of marks of violence or of blood on the person of the deceased—on his clothes or the furniture of the room—or on the rope or ligature, are circumstances from which, if observed at the time, important medical inferences may be drawn. As a rule, whosoever attempts to imitate suicide under such a form of murder must, when the facts are properly investigated, inevitably fail in his object. The assassin either does too little, or he does too much. In one case of murder by strangulation, the woman who perpetrated the crime had been a nurse in an infirmary, and accustomed to lay out dead bodies. After the act of murder she appears to have carried out unthinkingly, her professional practice, by smoothing the clothes under the body, placing the legs at full length, the arms out straight by the side, and the hands open and laid out! Such a condition of the body was quite inexplicable on the supposition of suicide, considering the amount of violence which must have attended the strangulation. In another case, the criminal had attempted to make the death appear like an act of suicide by placing the lower end of the rope near the hand of the deceased: but he selected the *left* hand when the deceased was right-handed, and he did not leave enough rope free from the neck for either hand to grasp in order to produce the very violent constriction of the neck which had been caused by the two inner coils. Both of these criminals confessed their crimes before execution.

It is proper to notice, in this place, the frequent occurrence within a recent period of what are called "*Garotte robberies.*" The system of murder normally pursued by the Thugs in India appears to have been imported into England, and many lives have been destroyed

in the manufacturing districts and in large towns, by the employment of strangulation for the purposes of robbery. In spite of many convictions, there is reason to believe that many criminals still set the law at defiance. The rigorous proof required of facts which under these assaults can rarely admit of proof, confers complete impunity on the assailants. The attack is made during darkness: the person is seized by the windpipe from behind, or a bandage is thrown around his neck; and this is suddenly tightened while accomplices are engaged in perpetrating robbery. The nature of the assault by pressure on the windpipe, renders it impossible to give an alarm or call for assistance. The person assaulted, if he should recover, is seldom able to identify an assailant: he is attacked from behind, is rendered immediately senseless and powerless, and can rarely offer resistance. Recovery or death in such cases depends on the lapse of a few seconds, more or less, during which the constriction of the neck is continued—on the degree of constriction, and on the age, sex, and strength of constitution of the person assaulted. An attempt at strangulation, as in garotting, besides inflicting serious local injury to the windpipe and other parts near to it, may cause a state of insensibility which may continue for some hours. There is severe pain in the throat, with difficulty of speaking and swallowing, and if the larynx be seriously injured there may be loss of voice. Dumbness, however, is not one of the secondary symptoms: and loss of voice is usually only temporary during the pressure. By the 24th and 25th Victoria, c. 100, s. 14, it is enacted, inter alia, that "whosoever shall attempt to drown, suffocate, or strangle any person with intent to commit *murder*, shall, whether any bodily injury be effected or not, be guilty of felony; and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years, . . . or to be imprisoned for any term not exceeding two years." As the intent in these cases is to perpetrate *robbery*, and not murder, another section (21) has been framed, for the prevention of the crime of *garotting:* "Whosoever shall by any means whatsoever, attempt to choke, suffocate, or strangle any other person, or shall, by any means calculated to choke, suffocate, or strangle, attempt to render any other person insensible, unconscious, or incapable of resistance, with intent, in any of such cases, to enable himself, or any other person, to commit, or with intent in any of such cases thereby to assist any other person in committing any indictable offence, shall be guilty of felony; and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years, . . . or to be imprisoned for any term not exceeding two years," &c.

Marks of Violence.—It may be inquired whether *marks* of violence on the body, or blood-stains on the clothes, furniture, or in the apartment, do not afford strong evidence of *homicidal* strangulation. The answer is—if the marks of violence are such that they could not possibly have arisen from any accident before death, or that they could not possibly have been self-inflicted, they afford the strongest

evidence of murder. But the cases wherein so positive an answer can be returned are exceptions to the rule. It is not always in our power to distinguish *accidental* or *self-inflicted* from homicidal violence; and we are always bound to look to the probability of accident, or of previous attempts at suicide, being the source of those personal injuries which may be apparent on a strangled body. There may be *several marks* on the neck, but then the person may have tried to strangle himself more than once. The throat may be cut; there may be a deep-seated stab or gunshot wound, involving some of the important organs of the body; or poison may be found in the stomach; but in a purely medical point of view, how are we to know that the deceased did not actually make the marks, inflict the wounds, or take the poison before he succeeded in strangling himself? In the chapters on Drowning and Hanging, we have seen what suicides can do when they are desperately bent on destroying themselves. Wounds and personal injuries often create serious difficulties to a medical jurist, which it requires the greatest caution and prudence on his part to meet and explain. The prejudice of the public mind is such, that the discovery of a strangled person, with any marks of personal injury or of poisoning in his stomach, would, in most cases, lead to a charge of murder, unless the facts rendered it clearly impossible that any attempt could have been made on his life. It is against this prejudice that a medical witness must strenuously guard himself; he may be abused for not joining in the outcry of the vulgar, but the best recompense for this abuse will be the conviction that he is interposing the shield of science to protect a possibly innocent fellow-creature from the senseless denunciations of ignorance. Further, before a charge of murder by strangulation is raised against any person from marks or appearances found on a dead body, care should be taken that they admit of no other probable explanation than the direct application of violence. Even if marks indicative of strangulation are discovered, the question arises whether they may not have been produced by the deceased upon himself in an attempt at suicide which may have failed. If the body of a person is allowed to cool, with a handkerchief, band, or tightly-fitting collar round the neck, a mark resembling that of strangulation will be produced. Before any opinion is given that murder has been perpetrated or attempted, the medical proofs on which reliance is placed, should be clear, distinct, conclusive, and satisfactory.

In the dead bodies of infants and children, in whom the neck is short, a mark is occasionally seen which arises from the bending of the head; and in short-necked persons a similar mark or depression has been noticed after death, in front of the neck. These marks are then rendered more prominently by their assuming a livid appearance. They might, at first, be mistaken for marks produced by a ligature in an attempted strangulation. In one case a death from apoplexy was attributed to homicidal strangulation from a cadaveric change of this kind. (Ann. d'Hyg." 1859, vol. 1, p. 139, and vol. 26, p. 149.) This matter was set right by the late M. Ollivier. Homicidal strangulation may be perpetrated on the weak and infirm with

out causing any noise or creating alarm. In the first place, if the throat is at once seized and firmly compressed no cry can be made, nor any noise produced to excite the attention of those who are near. In June, 1857, an aged woman was strangled in her shop by an apprentice in so short a time and with such facility, that her husband, who was only separated from her by a slight partition, heard no noise or disturbance during this act of murder. ("Ann. d'Hyg." 1859, vol. 1, p. 157.)

It cannot be disputed that in contested questions of suicidal or homicidal strangulation, rare as they are, we must be often greatly indebted to evidence founded on circumstances, as well as to moral presumptions. How far a medical jurist may be allowed to make use of these in the formation of an opinion, it will be for the court to determine. Generally speaking, his duty is rigorously confined to the furnishing of medical evidence from medical data alone; but instances present themselves in which this rule must be departed from, or the course of justice will be impeded. Besides, there are numerous circumstances of a collateral nature which may materially modify a medical opinion. Thus the sight of a ligature, the state of the dress, and the attitude of the deceased when discovered, although not strictly medical circumstances, bear directly upon medical opinions; and that evidence ought not to be objected to which is partly founded upon facts of this nature. It must occur to all, that without circumstantial evidence, the best medical opinion in these cases will often amount to nothing. It may be, for example, no more than this: the case is either one of homicide or suicide; and why is such an indefinite answer to be returned? Because, in the abstract view of strangulation, it is not easy to determine whether a ligature was *suicidally* applied round the neck or not. The appearances may be in many cases the same, and where they are different, this difference may be due to accident, so that it is a mistake to suppose that we must look to medical circumstances *alone* for clearing up this intricate question. On some occasions the theory of homicide or suicide will be equally consistent with the facts.

In all cases of fatal strangulation resulting from an act of suicide, the means by which strangulation was produced must be found upon the neck. The condition of the mark on the neck, the course and direction of the cord, the mode in which it was secured or fixed in order to produce effective pressure on the windpipe, the amount of injury to the muscles and parts beneath, are circumstances from which, if observed at the time, a correct medical opinion may generally be formed. If the means of constriction are removed, or the cord or ligature is loosely applied, these facts, unless explained, are presumptive of homicidal interference.

There is another condition in which a presumption of homicide will be justifiable. A man, in strangling himself, is not likely to vary the means. The act is commonly due to a sudden impulse, if we may judge from the moral proofs afforded in the instances on record. The article which is nearest to the suicide is seized, and made the instrument of self-destruction. It has already been stated

as doubtful whether a person could strangle himself by the mere application of the finger to the windpipe: the discovery of such *marks only* as would indicate this kind of strangulation, therefore, renders suicide in the highest degree improbable. But these marks may be sometimes ascribed to the deceased having fallen with his hand possibly applied to his neck, and the inference will be drawn that they have accidentally resulted from the pressure of his own fingers. This is an improbable mode of accounting for the production of ecchymosis or excoriation of the skin in the front of the neck. If, besides these marks of fingers, we find a circular mark, with a ligature still around the neck, the presumption of murder becomes very strong. It may be said that a person might at first try to strangle himself with his fingers, and, not succeeding, might afterwards employ a cord. But the degree to which the coincidental impressions exist will assuredly in general remove this objection.

Imputed Strangulation.—Hitherto the subject of strangulation has been considered in reference to the dead. But a living person may charge another with attempting murder under such circumstances, and here a medical jurist will have the not very arduous duty of detecting and exposing the imposture. It has been considered so improbable that any one would seriously attempt to strangle himself, and then impute the act to another, that medical jurists have given but little attention to this subject. A case which has been recently tried in France (*Affaire Armand et Maurice Roux*, March, 1864) has shown the great importance of it, and how easily medical men and the public may be deceived by a plausible story. As in reference to imputed wounds, so in these cases impostors rarely produce such injury to themselves as to place their lives in jeopardy. The cord is loose round the neck, or there would be speedy death; it is not so secured as to press with great force on the air-passages, to cause the tongue to protrude, or to produce lividity of the face and neck, or ecchymosis in the conjunctivæ and the skin. It is either a ligature or a rope which is used by the impostor: he does not commonly resort to manual violence to his throat. The marked feature of a really homicidal attempt is in the great amount of violence done to the neck; and the account given by the impostor will be inconsistent in its details, and not reconcilable with the ordinary effects of homicidal strangulation. Tardieu met with a case, in which a young woman of good social position, wishing to excite some public sympathy, alleged that she had been made the victim of a political conspiracy. One evening she was found at the door of her room, apparently in a very alarming state: she could not speak, but indicated, partly by gestures and partly by writing, that as she was entering her room a man had attempted to strangle her by pressing his hand upon her neck, and at the same time had stabbed her in the chest with a dagger. On close examination it was found that the two stabs had penetrated only to the outer clothing. But the most singular effect of the alleged attempt at strangulation was that, instead of producing a difficulty of speaking and alteration of the voice, it had been followed by complete dumbness! M. Tardieu,

who was officially authorized to examine the case, could find on the neck no trace of any attempt at strangulation; and on assuring the young lady that the loss of voice under such circumstances could not last for more than a minute, she at once admitted that there was no foundation for the charge! ("Ann. d'Hyg.," 1859, vol. 1, p. 163.) On this occasion no person was accused: but the case is different when, for the purpose of extortion or other base motives, one or more persons are charged with an attempt at murder. A flagrant instance of this kind occurred in France, in which a wealthy merchant of Montpellier was charged by his servant, *Maurice Roux*, with having attempted to murder him by strangulation. The case was tried in March, 1864, before the Court of Assizes of the Bouches du Rhone; and, fortunately for the interests of justice as well as for the credit of medico-legal science in France, it ended in a complete acquittal of the accused. (*Affaire Armand et Maurice Roux*, Paris, 1864. "Relation Medico-légale de l'Affaire Armand," &c., par A. Tardieu. "Annales d'Hygiène et de Médecine Légale," 1864, vol. 1, p. 415.)

It may be observed in reference to these imputed cases, that men who deliberately strangle others either draw a cord tightly or secure it by a knot. The pressure to the neck is not so gentle as to leave no mark whatever, or to allow the strangled person to breathe and watch all that goes on around him. Slight marks of violence about the neck should be viewed with great suspicion on these occasions. As a rule, a man does not half-strangle any more than he half-stabs or half-poisons another; but the impostor stops short of this stage, as he has no intention to destroy himself. If, as is most improbable in attempted homicide, the cord is left only loosely coiled around the neck, the person assaulted necessarily retains the power of breathing and calling for assistance: but if the hand of a murderer has been at work, it is effectually tightened, and the person dies in a few minutes. A charge of this kind, where there can be no witness but the person making it, requires to be supported, not by medical probabilities or possibilities, but by the strongest medical facts. These ought to show that there are marks of violence on the neck such as an assassin would be likely to inflict, and, at the same time, such as the person making the charge would not be likely to produce, or have the power of producing on himself.

SUFFOCATION.

CHAPTER XXXVIII.

SUFFOCATION FROM MECHANICAL CAUSES.—CAUSE OF DEATH.—APPEARANCES AFTER DEATH.—EVIDENCE OF DEATH FROM SUFFOCATION.—ACCIDENTAL, SUICIDAL, AND HOMICIDAL SUFFOCATION.—SMOTHERING.

By suffocation we are to understand that condition in which air is prevented from penetrating into the lungs, not by constriction of the windpipe, but by some mechanical cause operating on the mouth externally, or on the throat, windpipe, or air-passages internally. In this sense it will be perceived that drowning is one form of death from suffocation, the water being an effectual medium for preventing access of air to the lungs.

The term suffocation is applied to various conditions in which the symptoms and effects differ. There may be a simple privation of air; the air respired may not be renewed for the want of proper ventilation; or, lastly, the air which is breathed may be mixed with certain noxious gases or vapors, which, by absorption into the blood through the air-cells of the lungs, may destroy life like poisons. The symptoms preceding death, the disposition to recovery, and the post-mortem appearances in fatal cases, will differ under these circumstances. It will be sufficient at present to consider the most simple form of suffocation which is within the reach of experiment, namely, that which depends on the privation of air by substances blocking up the air-passages, or by the covering of the mouth and nostrils. The Committee of the Medico-Chirurgical Society performed a series of experiments on dogs, in which a tube was inserted into the windpipe, and breathing either took place or was completely arrested, according to whether the tube was kept open or closed by an accurately fitting plug. When the tube was closed the animal, after a variable number of seconds, made strong efforts to breathe; and when these ceased, unless air was speedily admitted, it died. From nine experiments on the dog, the average duration of the respiratory movements, after the animal had been completely deprived of air, was four minutes and five seconds. The average duration of the heart's action was seven minutes and eleven seconds; and it further appeared that, on an average, the heart's action continued for three minutes and fifteen seconds after the animal had ceased to make respiratory efforts. In respect to the rapidity with which death

takes place in animals, the following conclusions were drawn: 1st, a dog may be deprived of air during a period of three minutes and fifty seconds, and afterwards recover without the application of artificial means; and 2dly, a dog is unlikely to recover, if left to itself, after having been deprived of air during a period of four minutes and ten seconds. As in drowning, the shorter the interval between the last respiratory efforts and the re-admission of air, the greater the chance of recovery. ("Med.-Chir. Trans." 1862, vol. 45, p. 454.)

The results of these experiments in reference to the duration of life under privation of air may be considered applicable to a human being. It is not likely that a man would survive under these circumstances longer than a dog, and it may be fairly inferred that the life of a man would be destroyed in from four to five minutes after the power of breathing had been completely arrested.

There are many varieties of death by suffocation, all of which are of great medico-legal interest: 1. The close application of the hand over the mouth and nostrils, or the placing of a plaster or cloth over these parts, combined with pressure on the chest: this was formerly not an unfrequent form of homicidal suffocation. 2. Smothering, or the covering of the head and face with articles of clothing, &c., which effectually prevent breathing. 3. The accidental or forcible introduction of foreign bodies into the mouth and throat. 4. The flow of blood into the windpipe from a severe wound in the throat, or from the bursting of a bloodvessel or aneurismal sac. 5. In wounds of the throat, when the windpipe is completely divided, the lower end may be so drawn into the wound as to produce a closure of the orifice, and intercept the passage of air. One or other of these causes frequently operates to render a wound in the throat fatal. 6. The plunging of the face into mud, snow, dust, feathers, or similar substances. In all these cases death takes place from asphyxia, and with great rapidity if the chest sustains at the same time any degree of forcible compression. 7. Swelling or spasm of the glottis produced by the contact of corrosive substances. A case was referred to me, in July, 1848, in which death was probably thus caused by the application of a strong solution of pernitrate of mercury to an ulcer in the throat.

Suffocation may arise from *morbid causes* operating mechanically to prevent respiration, such as a diseased state of the parts about the throat, an enlargement of the glands, the bursting of a tonsillary abscess, or the effusion of lymph, blood, or pus into the windpipe, or about the opening of the larynx (rima glottidis). Any of these causes may suddenly arrest the act of breathing, a fact which can only be determined by a careful examination of the air-passages. Accidental suffocation may arise from large masses of food blocking up the larynx. If the glottis (the opening of the windpipe) be completely closed by food, death may take place suddenly; although the person so situated may be capable of making some exertion or of moving from the spot. Dr. Mackenzie relates a case in which a man was suddenly choked by swallowing a large piece of meat: he immediately walked across the street to a chemist's shop, and soon

after entering it, he fell down in a state of insensibility. After death the throat was found to be filled with a piece of beef, which rested on the glottis, and had pressed the epiglottis forward. Part of the mass had entered the windpipe through the rima glottidis, and had thus caused death by suffocation. It is probable that, in this and similar cases, the foreign body does not so completely close the aperture as to prevent some degree of respiration, but the blood being imperfectly aërated, asphyxia is speedily induced. ("Ed. Month. Jour." July, 1851, p. 68.) In a case which occurred in April, 1858, a youth, æt. 17, lost his life owing to an oyster becoming impacted in the air-passages during the act of swallowing.

A person has been wrongly charged with causing the death of another, when the cause was really owing to the impaction of food in the larynx. A remarkable instance of this kind (which is reported in the "Lancet" for March 9, 1850, p. 313), occurred at Hillingdon. Deceased had had a quarrel with the accused, who was his son-in-law, and they were seen to fall to the ground together, while struggling and fighting. They were separated. About two hours afterwards the deceased, who appeared quite well, was observed to rise from the dinner-table and leave the room. He was found leaning against the cottage, as if in a falling position, and he expired in two or three minutes! The person with whom deceased had been fighting was charged with manslaughter before a magistrate. At the inquest the medical witness stated that he found the organs of the body, excepting the brain, in a very healthy state. The brain was excessively congested, and he attributed death to apoplexy. The coroner desired the witness to examine the mouth and throat (which he had omitted to do at the inspection), as from the suddenness of death after eating, he (the coroner) thought the man might have been choked. This opinion turned out to be correct. A large piece of meat was found wedged in the opening of the throat; this had caused death by suffocation. It had not completely closed the air-passages in the first instance: hence the man was able to move from the dinner-table. The person accused of manslaughter was discharged. A medical jurist, however, must not lose sight of the fact that a foreign substance may be *homicidally* impacted in the larynx, and that, except by a careful examination of the body, death may be wrongly assigned to accident. A case reported by Dr. Littlejohn is in this respect instructive. In examining the body of a woman who it was stated had died suddenly, he found a quart-bottle cork inserted tightly into the upper part of the larynx. The sealed end was uppermost, and was roughened by the passage of the screw. Fractures of the ribs were found, and it was quite clear that deceased had not died a natural death. It was suggested that the deceased, while extracting the cork from the bottle with her teeth, might, by the sudden impetus of the contained fluids, have drawn it into the position in which it was found. But this theory was negatived by the sealed end of the cork being uppermost in the throat, as well as by the structure of the parts. The medical opinion was that the cork must have been forcibly placed there by another person, while

the woman was in a helpless state of intoxication. There was no reason to doubt that this was a deliberate act of murder. Five persons were present with the deceased at the time of her death, but it was impossible to fix with certainty upon the person who had committed the act, and the man on whom the strongest suspicion fell was acquitted on a verdict of "not proven." ("Ed. Med. Jour." Dec. 1855, p. 511; and for a report of the trial, the same journal, p. 540.)

In suffocation, death takes place from apnœa or asphyxia; and this occurs with a rapidity proportioned to the degree of impediment existing to the passage of the air. There does not seem to be any reason to attribute death to apoplexy. The congestion of the cerebral vessels may be regarded as a consequence of the disturbance of the functions of the lungs. If the veins of the neck were opened, so as to prevent an accumulation of blood in the vessels of the brain, it is pretty certain that the prevention of respiration would destroy life under the same circumstances, and within the same period of time; therefore we may regard death from suffocation as resulting from pure asphyxia. In treating a case of suffocation we have simply to allow of the renewal of air by removing, if this be possible, the mechanical obstacle to respiration. The results of experiments on dogs show that, even with a perfect closure of the windpipe, an animal may recover spontaneously after nearly *four minutes'* deprivation of air; and there is every reason to believe that a human being might recover after the same length of time. If five minutes have elapsed there will be but little hope of recovery. In drowning the chances of recovery continue only for half the period observed in suffocation; the lungs are injured, and the water by which they are penetrated forms a physical obstacle to the free admission of air. In hanging and strangulation there is sometimes great violence done to the parts about the neck. In suffocation these accidental obstacles to recovery do not exist: the surgeon has simply to readmit the air into the lungs. All experiments go to show that, even in this form of asphyxia, which is most favorable for recovery, the complete suspension of respiration for *five minutes* is fatal. Hanging and strangulation prove fatal from asphyxia in the same period of time, and drowning probably within half this period.

Post-mortem Appearances.—There are rarely any considerable marks of violence externally. When the body has become perfectly cold, there may be patches of lividity diffused over the skin; but these are not always present. The lips are livid; the skin of the face and neck may be pale, or present a dusky-violet tint, with small patches of ecchymosis. The eyes are congested; there is a mucous froth about the lips and mouth. The mouth, throat, and parts about the windpipe should be carefully examined for foreign substances. Internally the lungs and right cavities of the heart may be found distended with blood. The state of the lungs and heart is, however, subject to variation. The lungs are not necessarily found congested; and sometimes, as in a case referred to me in November, 1864, one lung may be found congested and the other not. M. Tardieu states,

from his observations, that the *lungs* are of a reddish color, sometimes even pale, not distended, and presenting, occasionally, only a slight degree of congestion at the base and posteriorly. A special character which he states he has invariably noticed in these organs consists in the presence of small ecchymosed spots or patches beneath the pleura or investing membrane. He describes these spots as of a dark color, and varying in size from a pin's head to a lentil. In the adult they are of still larger size. Their number is variable; sometimes five or six may be found, at others twenty or thirty; and in other cases the surface of the lungs may be so studded with them as to give to it a granite-like appearance. These spots of ecchymosis are sometimes agglomerated, at other times separated, but their outline is generally distinct and well-defined on the surface of the lungs. They are most frequently seen at the root of the lungs, at its base, and about its lower margin. They are owing to small effusions of blood from ruptured vessels, like true ecchymosis. They may be distinguished so long as the tissue of the lung remains unchanged. M. Tardieu states that he has seen these subpleural ecchymoses in the body of an infant, ten months after death! ("Ann. d'Hyg." 1855, vol. 2, p. 379.) He admits, however, that they may also be found in the bodies of children that have not breathed; hence no inference of death from suffocation should be drawn from this appearance in the lungs of children, unless they have actually received air. In three instances he met with this appearance in lungs which sank in water, and had all the usual characters of these organs in a fœtal state. The children had been born living, prematurely, and under conditions in which life by respiration could not be perfectly established: one of them had made several cries without effectually receiving air into the lungs (loc. cit.). (See Casper's "Klinische Novellen," 1863, p. 471.) This struggle to breathe may have produced the appearance resembling that of suffocation; in new-born children that die from suffocation the thymus gland has been found in a similar condition.

This dotted appearance of the surface of the lungs in suffocation is not attended with the apoplectic effusions in their substance which are met with in death from strangulation. Emphysema, or escape of air from rupture of the air-cells, is occasionally observed. The more rapidly suffocation has taken place the more strongly marked is this appearance of ecchymosed spots. On the other hand, when the interruption of breathing has been slow and gradual, the substance of the lungs is more congested with blood, and then these dots or patches are merged in the general violet color of the surface of the organs. The lining-membrane of the windpipe and larger air-tubes is sometimes pale, but commonly dark-colored when the lungs are congested. In the air-passages there is occasionally a frothy reddish-colored liquid in small vesicles.

The *heart* presents no special appearance indicative of the mode of death, if we except the presence of small spots of ecchymosis found below the investing membrane, like those met with on the lungs. They have been found near the roots or origin of the great vessels,

but are not so frequently observed in this organ as in the lungs. The blood is generally dark and fluid; sometimes coagula are met with. The stomach and intestines have been observed to present patches of lividity. Casper has found the kidneys more strongly congested with blood than the liver, spleen, and other organs. The vessels of the *brain* are sometimes congested, but at other times they do not appear to be more than ordinarily full. Their condition may be affected by the congested state of the lungs, as well as by the slowness or rapidity with which death takes place. Other appearances which have been described are of an accidental nature, and are not connected with death from suffocation.

In a case of alleged murder by suffocation, respecting which I was consulted in December, 1857, the following appearances were met with. The body was lying on the bed: the right leg was drawn up towards the body—the right arm was bent, with the hand directed towards the face; the left hand was lying upon the chest. The lips were livid, the tongue protruded and swollen, and there was a bloody fluid issuing from the nostrils. There was no mark of constriction on the neck; the eyes were half-open; the body was rigid and still warm. The face and neck were much swollen, and the skin of these parts, as well as of the chest, abdomen, arms and legs, was covered with dark livid patches. The brain was gorged with venous blood. The heart was soft and flaccid, and its cavities were empty. The mucous membrane as well as the tissues of the air-passages were much congested with dark liquid blood: the blood was everywhere liquid. The stomach contained a small quantity of a dark-colored liquid, and the greater end was reddened. The spleen was congested. The emptiness of the cavities of the heart was at first considered to be inconsistent with death from asphyxia: but this condition of the heart is occasionally found. It may be stated that in this case the deceased, a female, was greatly exhausted by sickness and purging. On the second day of her illness she was found dead in the state described, and her husband was charged with having suffocated her.

Evidence of Death from Suffocation.—In medical jurisprudence there is not, perhaps, an instance in which we have fewer medical data upon which to base an opinion than in a case of alleged death from suffocation. The inspection of the body of a person suffocated, if we except the peculiar condition of the surface of the lungs lately pointed out by M. Tardieu, presents so little that is peculiar, that a medical man, unless his suspicions have been roused by circumstantial evidence, or by the discovery of foreign substances in the air-passages, would probably pass it over as a case of death without any assignable cause—in other words, from *natural causes*. In examining the body of the woman *Campbell*, who was suffocated by *Burke* in Edinburgh, Dr. Christison was unable to come to any conclusion respecting the cause of death until some light had been thrown on the case by collateral evidence. On this occasion a violent death was suspected, because there were marks of violence externally, and the face of the deceased presented some of the characters of strangulation. These conditions, however, are by no means

essential to death from suffocation, and when they exist they can only be regarded as purely accidental accompaniments. Appearances similar to those found in the bodies of suffocated persons, if we except the dotted ecchymosis on the lungs, are frequently met with in inspections when death has taken place as a consequence of disease or accident. They can, therefore, furnish no conclusive evidence of the kind of death; they scarcely permit a witness to establish a presumption on the subject, until, by a careful examination of the body, he has ascertained that there is no other cause of death depending on organic disease or on violence. Medical evidence may, however, be serviceable in some instances. Thus, let the general evidence establish that a deceased person has probably been suffocated, the witness may have it in his power to state that the appearances in the body are consistent with this kind of death; that the body is in all respects healthy and sound, and that death was probably sudden—as where, for instance, undigested food is discovered in the stomach. The presence of ecchymosis on the surface of the lungs may justify a strong opinion of death by suffocation when no other cause is apparent. In all cases of this description, we must bear in mind that an opinion relative to the supposed cause of death is to be formed from the *medical* circumstances, and from what we have ourselves seen, unless it be otherwise allowed by the court. From this want of clear evidence, great difference of opinion on the cause of death frequently exists among medical witnesses.

Accidental suffocation is not unfrequent; and there are various conditions under which a person may die suffocated only discoverable after death. 1. Diseases about the tongue, larynx, or throat may have advanced to such an extent as effectually to prevent breathing. 2. The deceased may have fallen, and the mouth become covered with dust or other substances; and if helpless, as in the case of an infant or an aged person, or of one who is intoxicated, death may thus easily take place. A child was found dead in a room, with its face in the ashes under a grate: it had fallen during the absence of the mother, and, from its helpless condition, had speedily become suffocated. Some of the ashes were found in the windpipe. ("Med. Gaz.," vol. 17, p. 642.) For a case in which suffocation was caused by a pea, see the same journal, vol. 29, p. 146. In trials for murder or manslaughter, a medical opinion respecting the accidental suffocation of a drunken person, under similar circumstances, is occasionally required. These persons, it must be remembered, are generally as helpless as children: if they fall in a position so that the mouth is covered, they may be so powerless from intoxication as not to be able to escape. 3. A portion of food may have remained fixed in the larynx or throat. Children are sometimes accidentally suffocated by drinking boiling water from a tea-kettle. The parts about the larynx then become swollen from the action of the hot water, and breathing cannot take place. 4. Accidental suffocation is not uncommon among infants, when they sleep with adult persons. A child may be in this way speedily destroyed. Even the close wrapping of a child's head in a shawl to protect it from cold

may effectually kill it, without any convulsive struggles to indicate the danger to which it is exposed (p. 378). Convulsions by no means necessarily attend on death from suffocation.

Those instances of accidental suffocation which depend on disease, or on the impaction of food, are easily known by a careful examination of the parts about the throat: generally speaking, they present no difficulty. In other instances—when a child or a drunken person is presumed to have been suffocated owing to the position in which he has fallen, evidence as to the position of the body, or even the actual sight of the body, is necessary before forming an opinion. The following questions may here arise: Was the position such as to be explicable on the supposition of accident? Was it not such a position as might have been given to it by a murderer? Could not the deceased have had strength or presence of mind to escape? Could he have been actually suffocated in the position in which his body was discovered? A little reflection upon the circumstances—for here something more than *medical* circumstance will be required—may enable us to give satisfactory answers to these questions.

Some singular cases are on record, in which persons have wilfully destroyed themselves by blocking up the throat mechanically. An instance of this form of *suicide* is reported in the "Edin. Med. and Surg. Jour." April, 1842. A woman confined in prison forced a hard cotton-plug into the back of her throat. The cavities of the chest and abdomen had been already examined, and a medical certificate given that the deceased had died of apoplexy! The body was sent to one of the anatomical schools, and on re-inspection it was accidentally found that the throat was firmly blocked up with a plug of spindle cotton.

Homicide by suffocation is not very common, although it is a ready means of perpetrating murder. Hitherto the cases which have come before our courts have been those either of infants, of the aged and infirm, or of persons enfeebled by illness. In regard to the latter, the rigorous administration of the law has succeeded in putting a check to this crime; but with respect to children, it probably yet continues. Death by suffocation is most difficult to detect; and, unless the assailant has employed an unnecessary degree of violence, it is probable that the crime may pass altogether unsuspected. Homicide by suffocation would not be attempted on healthy adult persons, unless they were in a state of intoxication, and thereby rendered defenceless. It is certain that most individuals would have it in their power, unless greatly incapacitated by disease or intoxication, to offer such a degree of resistance as would leave upon their bodies indubitable evidence of murderous violence. Death by suffocation may be considered as presumptive of homicide, unless the facts are clearly referable to accident. Accidental suffocation is, however, so palpable from the position of the body and other circumstances, that when death is clearly traced to this cause, it is not easy to conceive a case in which it would be difficult to distinguish it from one of actual murder. In some instances, the very

means that have been adopted to produce suffocation may forbid the supposition of accident, and clearly establish the fact of homicide.

The suffocation of new-born children, by the introduction of substances into the mouth, is not unfrequent. The unnecessary force employed generally leaves traces of violence, which may be easily discovered by a careful examination, even should it happen that the substance used for the murderous purpose has been removed.

It is necessary to point out a dangerous practice common among ignorant nurses, which, without exciting suspicion on the part of a coroner or medical witness, may be an occasional cause of death in infants. In order to quiet a child, and to enable a nurse to sleep without disturbance, a bag made of wash-leather or rag, containing sugar, is thrust into the child's mouth. It is thus completely gagged, and the child soon becomes quiet, respiring chiefly through the nostrils. If these by any accident become obstructed, or by the act of aspiration the bag should fall to the back of the throat, death by suffocation must inevitably result, the infant being perfectly helpless! The suspension of breathing may be so gradual that the child may die without crying or convulsions. The removal of the bag from the mouth, as no violence had been used, will remove every trace of the cause of death; and, in order to exculpate herself, the guilty person may ascribe death to "fits." In one instance, within my knowledge, an infant was timely saved by the mother having discovered, while the nurse was sleeping, a mass of wash-leather projecting from its mouth. The woman awoke, and attempted to remove and conceal the leather, but she was detected in the act. The detection of this dangerous practice can only be a matter of pure accident: hence a fatal case can be rarely the subject of a coroner's inquest, and even then medical evidence may fail to throw any light upon the cause of death. In one instance only have I known it to give rise to a criminal charge—(*Reg.* v. *Cox*, Warwick Lent Assizes, 1848). The mother, a pauper female, was tried for the attempt to suffocate her infant, eleven days old. The child was discovered by another person with a piece of rag hanging from its mouth. It was livid in the face, but when the rag was removed it made a violent gasp, and recovered its breath. There was no malice on the part of the prisoner, but it was made a strong point in her favor that instances had occurred in the workhouse, in which women had with impunity put rags with sugar into the mouths of infants in order to soothe and keep them quiet! The jury acquitted her. The admitted practice of infantile suffocation in the Warwick workhouse appears to have passed without reprimand or even comment, although this plan of soothing infants is just as likely to be fatal to them as that of encircling their necks with tight ligatures.

Smothering.

Smothering is a variety of suffocation, and consists in the mere covering of the mouth and nostrils in any way so as to prevent the free ingress and egress of air. Like drowning, hanging, or strangu-

lation, it produces death by asphyxia. In new-born infants it is not an unusual occurrence, sometimes originating in accident, and at others in criminal design. An infant may be speedily destroyed by smothering. If the mouth be only lightly covered with clothing, or slightly compressed, so that respiration is interrupted, as in the act of carrying a child in the arms, this will suffice to cause death; and, as it has been already remarked, death may take place without being preceded by convulsions or other striking symptoms. Smothering is not often resorted to as a means of perpetrating murder, except in infants, or in debilitated and infirm adults. In a case which occurred at Ayr, a woman was charged with the murder of her child by smothering it in her shawl. She was travelling in a steamboat: it was a cold stormy day, and she had wrapped the shawl closely round the head of the child. There could be no doubt, from the moral circumstances, that she had intended to kill it; but the defence was that she had merely intended to protect the child from the cold, and it was suffocated before she was aware of it. There were no facts to exclude this defence, and the woman was acquitted. But children may be thus accidentally destroyed, through the ignorance of persons who nurse them.

According to the late Mr. Wakley, infants are frequently found dead owing to their being suckled at night while the woman is in bed. The child's face is pressed on the breast: mother and child fall fast asleep; the head slips beneath the clothes, and the child is then quietly suffocated. There is no mark of pressure or violence on the body. ("Lancet," Jan. 16, 1858, p. 69.) A case, apparently of this kind, was communicated to me by Mr. Nason in Sept. 1860. The child (five days old) died quietly on its mother's arm while lying in bed. There was much lividity about the head, neck, and back; but there were no marks of violence. The bronchial tubes of the right lung contained bright florid blood. The left lung was gorged with blood, but none had escaped. The heart was firmly contracted, and there was only a small quantity of blood in its right cavities.

The *appearances* presented by the bodies of children who have died under these circumstances may be thus described from actual cases: *Externally:* features placid; lips congested: eyes not unduly prominent; conjunctivæ rather reddened; hands clenched; patches of ecchymosis sometimes found on the skin. *Internally: Head*—patches of effused blood here and there beneath the pericranium; great congestion of the pia mater, accompanied by numberless effusions of blood, varying in size from a pin's point to a silver penny in superficial extent; a little clear fluid in the ventricles; some frothy mucus in the windpipe and bronchi, with redness of their lining-membrane. The lungs are much congested and crepitant, whilst beneath the pleuræ blood had been everywhere effused, presenting numerous small bright-red patches, and fine points: all the blood of the substance of the lungs was within its vessels. The pericardium contained some serum, and was spotted in its whole extent after the manner described; the vasa vasorum of the heart's great vessels and thoracic aorta were minutely injected. The right

cavities of the heart in all the cases contained dark liquid blood; the left cavities were nearly empty; the tissue of the organ was free from effused blood. The surface only of the thymus gland was mottled like the heart.

There is a prevalent notion that congestion of the lungs is an invariable accompaniment of death from suffocation, and where this was not found, it has been hastily assumed that death had taken place from some other cause. Some remarks on this post-mortem appearance have been made in the chapter on drowning; and it is desirable, in reference to future cases to point out the fallacy involved in the assumption that congestion of the lungs is necessarily present in death from suffocation. Mr. Watson observes that the gorged state of the right side of the heart and lungs is greatest where the act of suffocation (asphyxia) has been slow and gradual, by the access of air to the lungs not having been completely prevented. When, on the other hand, death has taken place quickly or suddenly from this cause, there is little or no unusual congestion of blood in the lungs or heart. ("On Homicide," p. 115.) At page 118 he describes a case of death from suffocation in which the lungs were natural; and in the case of *Campbell*, for whose murder by suffocation *Burke* was convicted and executed in 1828–9, Dr. Christison and Mr. Newbigging found the organs within the chest perfectly natural, the lungs remarkably so, and unusually free from infiltration. The blood in the heart and great vessels as well as throughout the body was fluid and black. ("Ed. Med. and Surg. Jour." vol. 31, p. 239.) Again, in the case of *Carlo Ferrari*, for the murder of whom *Bishop* and *Williams* were convicted and executed in London in 1831, the lungs were quite healthy, and *not congested;* the heart was rather small, contracted, and its four cavities were perfectly empty. Taylor's "Elements of Medical Jurisprudence," 1836, p. 292.) The prisoners in this case confessed that they destroyed the deceased by suffocation. From these facts it will be perceived that the actual state of the lungs and heart in the bodies of those who have been notoriously murdered by suffocation, is that which has been wrongly pronounced to be inconsistent with this mode of death.

In reference to the case of *Campbell*, Dr. Christison observes "that the conviction in the public mind that a well-informed medical man should always be able to detect death by suffocation simply by an inspection of the body and without a knowledge of collateral circumstances is erroneous, and may have the pernicious tendency of throwing inspectors off their guard, by leading them to expect strongly-marked appearances in every case of death from suffocation. That such appearances are very far from being always present ought to be distinctly understood by every medical man who is required to inspect a body and give an opinion of the cause of death." (Op. cit. p. 243.) At the same time, in the absence of marked appearances to indicate violent death, due caution should be used by a medical witness in expressing an opinion. At the trial of the prisoner *Burke*, Dr. Christison restricted his opinion by stating that death by violence was, from the medical circumstances alone, *very probable;* a

degree of caution which on similar occasions it will be desirable for a medical witness to imitate. Under the rule of English jurisprudence, by which accused persons are not allowed to be interrogated, it is not possible to carry medical evidence further than this. There is nothing in the act of suffocation, as there is in wounds, poisoning, hanging, or strangulation, by which the hand of a criminal can be clearly and unequivocally traced.

CHAPTER XXXIX.

GASEOUS POISONS.—CARBONIC ACID.—SYMPTOMS.—APPEARANCES.—ANALYSIS.—EFFECTS OF CHARCOAL-VAPOR.—CARBONIC OXIDE.—COAL AND COKE VAPOR.—SULPHUROUS ACID.—VAPORS OF LIME, CEMENT, AND BRICK-KILNS.—CONFINED AIR.—COAL-GAS.—CARBURETTED HYDROGEN.—SULPHURETTED HYDROGEN.—EFFLUVIA OF DRAINS AND SEWERS.

Mode of Action of Gaseous Poisons.—In following common language, a medical jurist is compelled to apply the term suffocation to another variety of death, namely, to that of poisoning by *gases*. Physiological accuracy must here be sacrificed, in order that we may make ourselves generally intelligible. Thus, if a person die from the effects of carbonic acid, of confined air, of sulphuretted hydrogen, or of other noxious gases, he is commonly said to die suffocated. Strictly speaking, he dies poisoned—as much so as if he had taken oxalic or hydrocyanic acid. The only differences are: 1. That the poison, instead of being liquid or solid, is *gaseous;* and 2. Instead of being applied to the mucous membrane of the stomach, it affects that of the *air-cells* of the lungs. In the action of arseniuretted hydrogen we have a clear instance of poisoning by a gas, and in the respiration of the narcotic vapors of chloroform and ether we have also illustrations of this form of poisoning. Owing to the fact that the poisonous material is in a finely-divided state, and that in the air-cells of the lungs it meets at once with a large absorbing surface, and instantly enters the blood, the effects are more rapid, and cæteris paribus, more powerful. It has been remarked, too, that some (and probably all) of these aerial poisons have an accumulative action, *i. e.*, their effects continue to increase for a short period, even after a person has ceased to respire them.

The Cause of Death Mistaken.—The greater number of the poisonous gases are chiefly complex products of art, and are never likely to be met with in the atmosphere so abundantly as to produce injurious consequences; hence fatal accidents arising from their inhalation, most commonly occur under circumstances which can leave no question respecting the real cause of death. The peculiar effects of all of these it will not be necessary to describe in this place; but

there are two a knowledge of the properties and operation of which may, on certain occasions, be required of a medical jurist; these are the CARBONIC ACID and SULPHURETTED HYDROGEN GASES. Agents of this description can rarely be employed with any certainty as instruments of murder; and if they were so employed, the fact could be established only by circumstantial evidence. One alleged instance of murder by carbonic acid is, however, reported by M. Devergie. ("Ann. d'Hyg." 1837, vol. 1, p. 201.) Death, when arising from the respiration of any of the gases, is generally attributable to suicide or accident. In France it is by no means uncommon for a person to commit self-destruction by sleeping in a closed apartment, in which charcoal has been suffered to burn; while in England accidental deaths are sometimes heard of, where coal or coke has been employed as fuel in small and ill-ventilated rooms. On such occasions a person may be found dead without any apparent cause to the casual observer. The face may appear pale or livid, and the skin may be covered with patches of lividity. The discovery of a body under these circumstances will commonly be sufficient in the eyes of the vulgar, to create a suspicion of murder; and some person, with whom the deceased may have been at that period on bad terms, will perhaps be pointed out as the murderer. In such a case, it is obvious that the establishment of the innocence of the accused, will depend entirely on the discrimination and judgment of a medical practitioner. An instance, illustrative of the consequences of this popular prejudice, occurred in London in 1823. Six persons were lodging in the same apartment, where they were all in the habit of sleeping. One morning an alarm was given by one of them, a female, who stated that on rising she found her companions dead. Four were discovered to be really dead, but the fifth, a married man, whose wife was one of the victims, was recovering. He was known to have been on intimate terms with the woman who gave the alarm, and it was immediately supposed that they had conspired together to destroy the whole party, in order to get rid of the wife. The woman who was accused of the crime was imprisoned, and an account of the supposed barbarous murder was soon printed and circulated in the metropolis. Many articles of food about the house were analyzed in order to discover whether they contained poison, when the circumstances were explained by the man stating that he had placed a pan of burning coals between the two beds before going to sleep, and that the doors and windows of the apartment were closed. (Christison, p. 583.) A set of cases of a similar kind, in which there was at first a strong suspicion of poisoning, has been reported in the "Medical Gazette," by Mr. Smith, of Liverpool (vol. 36, p. 937; see also "Ann. d'Hyg." 1843, vol. 2, p. 56).

Carbonic Acid.

This gas is freely liberated in respiration, combustion, and fermentation; it is also produced in the calcination of chalk or limestone, and is sometimes diffused through the shafts and galleries of

coal-mines, where it is commonly called "choke-damp." Carbonic-acid gas is likewise met with in wells, cellars, and other excavations in the earth. In these cases it is generally found most abundantly on the soil, or at the lower part of the well: and it appears to proceed from the decomposition of animal and vegetable matters confined in such situations. The slow evaporation of water strongly charged with the gas, while trickling over the sides of these excavations, may likewise assist in contaminating the air. Damp sawdust or straw slowly absorbs oxygen from a confined atmosphere, and sets free carbonic acid.

Sir Humphrey Davy believed that carbonic acid, in a perfectly pure state, did not pass into the trachea when an attempt was made to respire it; the glottis seemed to close spasmodically at the moment that the gas came in contact with it. On diluting the carbonic acid with about twice its volume of air, he found that he could breathe it; but it soon produced symptoms of giddiness and somnolency. In a diluted state there is no doubt that it penetrates into the lungs, and that it is absorbed and circulated with the blood. In estimating the effects of this gas when mixed with air, a distinction must be made. The gas may be simply added to the air, or it may be produced at the expense of the oxygen in the inclosed space or apartment. In the latter case, it must be remembered that every volume of carbonic acid thus produced represents an equal volume of oxygen removed. Such an atmosphere is, therefore, more destructive than another in which the air and gas are in simple admixture. If we assume that in each case the noxious atmosphere contains 10 per cent. of carbonic acid, then in one instance there will be 7 per cent. more of oxygen and 7 per cent. less of nitrogen than in the other, since the production of 10 parts of carbonic acid as a result of combustion implies the loss of 10 parts of oxygen. This difference in the proportions may not be, practically speaking, correct, because there is no apartment sufficiently closed to prevent air rushing in from the exterior while combustion is going on within it; but, nevertheless, the above statement may be taken as an approximation to the truth.

The statements made by chemists and physiologists, respecting the proportion of carbonic acid in air required to produce noxious or fatal effects on human beings, are very conflicting. Small animals, such as birds and mice, have been generally made the subject of experiments, but the results thus obtained cannot be satisfactorily applied to show the relative action of carbonic acid on man. Berzelius stated that a proportion of 5 per cent. in air was not injurious, and that such a mixture might be usefully employed in the treatment of consumption. ("Traité de Chimie," t. 2, p. 83.) Allen and Pepys inferred, from their experiments on guinea-pigs, that 10 per cent. of the gas would prove fatal to man. In the more recent experiments of Bernard this inference is corroborated by the fact that a bird died in two-and-a-half hours in an atmosphere consisting (in 100 parts) of 9.5 of carbonic acid, 28 of oxygen, 62.5 of nitrogen. ("Les Substances Toxiques," 1857, p. 135.) In this case the pro-

portion was less than 10 per cent., while the proportion of oxygen was 7 per cent. more than that existing in the atmosphere. On the other hand, Demarquay says that one part of carbonic acid and three parts of air (25 per cent.) produce in man but slight discomfort after being breathed for some time. According to this writer, most of the accidents caused by charcoal-vapor, confined air, and gases in fermenting vats, are wrongly ascribed to carbonic acid, and should be attributed to carbonic oxide, sulphuretted hydrogen, alcoholic vapors, or other gases not yet understood. ("Chem. News," Aug. 4, 1865.) Those who have employed mixtures of carbonic acid and air for anæsthetic purposes have stated that air containing 20 per cent. of carbonic acid may be breathed without any injurious effects. Such a mixture would be composed (in 100 parts) of 20 of carbonic acid, 16 of oxygen, and 64 of nitrogen. In this mixture, if carefully made, oxy-combustion cannot be maintained; hence, if there was no error in the above proportions, it follows that a man can breathe with safety and live in air in which a candle will not burn. Bernard's carefully performed experiments are adverse to these statements. He found that animals died in atmospheres in which the proportion of carbonic acid varied from 12 to 18 per cent., while the amount of oxygen varied from 5 to 30 per cent. ("Les Substances Toxiques," p. 140.) When it is asserted that a person can thus breathe with impunity proportions which are fatal to life, it would be desirable to know how such mixtures were made, and whether proper care had been taken to prevent respiration of air by the mouth and nostrils while the supposed poisonous mixture was being inhaled. Such statements, founded on imperfect experiments, are highly mischievous, for they may lead to death in cases in which the mixture is accurately made, and administered to a person whose mouth and nostrils are closed against the ordinary atmosphere. If air can be breathed simultaneously, there is an end of the alleged poisonous proportion.

Symptoms.—The symptoms of poisoning by carbonic acid vary according to the proportion in the air which is breathed. In a concentrated state there is sudden insensibility, followed by death, unless the person is immediately removed into pure air. When the air is gradually poisoned, and contains its lowest poisonous proportion, insensibility comes on more slowly, and as in ordinary narcotic poisoning is preceded by giddiness, somnolency, and loss of muscular power. When the gas is in a fatal proportion the symptoms commonly observed are as follows: A sensation of great weight in the head, a sense of pressure in the temples, a ringing in the ears, with a pungent sensation in the nose; a strong tendency to sleep, accompanied by giddiness, and so great a loss of muscular power that, if the person be at the time in an erect posture, he instantly falls to the ground as if struck. The breathing, which is observed to be at first difficult and stertorous (snoring), becomes suspended. The action of the heart, which on the first accession of the symptoms is very violent, soon ceases: sensibility is lost, and the person now falls into a profound coma, or state of apparent death. The warmth

of the body still continues: the limbs are relaxed and flexible, but they have been observed in some instances to become rigid, or even occasionally convulsed. The countenance is livid or of a leaden color, especially about the eyelids and lips, but on some occasions it has been pale and placid. The access of these symptoms is stated to have been sometimes accompanied by a pleasing sensation of delirium, while at others the most acute pains have been suffered. In some instances there appears to have been irritability of the stomach, for the affected person has vomited the contents of his stomach in a semi-digested state. Those who have been resuscitated have felt pain in the head, or pain and soreness over the body for several days: while, in a few severe cases, paralysis of the muscles of the face has supervened on recovery.

Post-mortem Appearances.—In some instances the face has been found livid and swollen and the features distorted, but more generally it has been pale and placid, as if the person had died without a struggle in the position in which his body was found. The skin is sometimes livid, or presents patches of lividity, and the limbs are quite flaccid. The pupils have been found dilated. *Internally*, the venous system is filled with liquid blood of a dark color. In death from carbonic acid as a result of combustion, the blood has sometimes had a light-red color. The vessels of the lungs and brain are observed to be especially in a state of congestion. The tongue appears swollen, and sometimes the mucous membrane of the intestinal canal presents dark ecchymosed patches. The following appearances were met with thirty hours after death in the bodies of two adults, male and female, who died from the accidental introduction of carbonic acid into their bedroom from burning ashes. Externally there was nothing unnatural, excepting a few slight discolorations on the back of the man; internally there was congestion of the membranes and great vessels of the brain. Each lateral ventricle contained about half-an-ounce of clear serum; the lungs were gorged with dark blood: and the lining membrane of the air-tubes (bronchi) was slightly reddened. The left sides of the heart were nearly empty: the right contained a quantity of dark half-coagulated blood. The stomachs were healthy. The bodies were found on the floor of the bedroom in easy positions. The deceased persons had had the power to get out of bed, but were unable to escape from the chamber. It will be perceived from this description that there is nothing very characteristic in the appearances, and thus it is always easy to ascribe death to apoplexy or some other cause; but it should be remembered that carbonic acid itself is a narcotic poison, inducing cerebral congestion and apoplexy.

Analysis.—Sometimes a medical jurist may be required to state, for the purposes of justice the nature of the gaseous mixture in which a person may have died. There will be no difficulty in determining whether carbonic acid is or is not the deleterious agent in such a mixture. When it exists in a confined atmosphere its presence may be identified, if previously collected in a proper vessel, by the following characters: 1. It extinguishes a taper if the propor-

tion be above 12 or 15 per cent. 2. Lime-water, or a solution of subacetate of lead, is instantly precipitated white when poured into a jar of the gas; and the precipitate thus formed may be collected by filtration, and proved to possess the well-known properties of carbonate of lime or lead. Air containing only 1 per cent. of carbonic acid affects lime-water: if it amounts to 2 per cent. a few cubic inches will suffice to show its presence by the lime-water test. The *proportion* in which carbonic acid exists in a mixture may be determined by introducing into a measured quantity, in a graduated tube over mercury, a strong solution of potash. Absorption will take place after a certain time, and the degree of absorption will indicate the proportion of carbonic acid present. When this gas exists in a confined spot, as in a well or cellar, it may be got rid of by placing within the stratum, a pan containing the hydrate of lime loosely mixed with water; by exciting combustion at the mouth of the pit; or, what is better when available, by a jet of high-pressure steam. Lives are often successively lost on these occasions, in consequence of one person descending after another, in the foolish expectation of at least being able to attach a rope to the body of his companion. The moment that the mouth comes within the level of the invisible stratum of gas, muscular power is lost, and the person commonly sinks lifeless. Carbonic acid may be collected for the purpose of testing by lowering a bottle filled with fine sand, by means of a string attached to the neck, and guiding the bottle by another string attached to its base. When the bottle is within the stratum, it should be turned with its mouth downwards; and when the sand has fallen out, it may be rapidly raised, with its mouth upwards, by pulling the string attached to the neck.

Combustion in Mixtures containing Carbonic Acid.—In reference to suffocation by carbonic acid, there is one circumstance which requires attention. It is a matter of popular belief—and, in fact, it is generally asserted by writers on asphyxia—that the burning of a candle in a suspected mixture of carbonic acid and air, is a satisfactory proof that it may be respired with safety. The results of some experiments on this subject have led me to the conclusion that a candle will burn in air which is combined with even 10 or 12 per cent. of its volume of carbonic acid gas; and although such mixtures might not prove immediately fatal to man, yet they would soon give rise to giddiness, insensibility, and ultimately death, in those who, after having been once immersed in them, did not hasten to quit the spot. In air containing a smaller proportion than this (5 or 6 per cent.), a candle will readily burn, but it is probable that such a mixture could not be long respired without causing serious symptoms; hence the *burning of a candle can be no criterion of safety* against the effects of carbonic acid. It is true that in gaseous mixtures, where a candle is extinguished, it would not be safe to venture; but the converse of this proposition is not true—namely, that a mixture in which a candle burns may be always respired with safety. It has been observed on several occasions that the combustion of charcoal

has been maintained in a room in which persons have been found in a state of insensibility from breathing the vapors.

Charcoal-vapor. Carbonic Oxide.

The vapor extricated during the combustion of charcoal is not pure carbonic acid, but a mixture of gases. It operates fatally when respired, partly in consequence of the carbonic acid contained in it, and partly from the presence of a variable proportion of carbonic oxide. The proportion of these gases, however, is subject to variation, according to whether the combustion is vivid or not. When the charcoal burns vividly, the quantity of carbonic acid was found by Orfila to be less than when it is either nearly extinguished or beginning to burn. In the former case the carbonic acid was in the proportion of about 11 per cent. by volume—in the latter the proportion amounted to about 14 per cent. Leblanc found that charcoal burning in the open air produced about ½ per cent. of carbonic oxide. There is no doubt that a low or imperfect combustion is more favorable to the production of this gas, and it is considered to operate more powerfully on the body than carbonic acid. According to Leblanc a bird was killed instantly by breathing an air containing 4 or 5 per cent. of carbonic oxide; only 1 per cent. sufficed to cause death in two minutes. ("Ann. d'Hyg." 1843, vol. 2, p. 54.) Charcoal-vapor may be regarded as a mixture of carbonic acid, carbonic oxide, aqueous vapor, and air partially deoxidized. There is also associated with it, at a low temperature, a small quantity of carburetted hydrogen. This does not appear to take any part in the fatal effects produced by the vapor: these are owing to the action of carbonic acid and carbonic oxide, and according to Bernard a mixture of the two is more destructive than either gas separately. ("Les Substances Toxiques," p. 212.) M. Leblanc endeavors to determine the proportion of the gases in charcoal-vapor when this was in such a condition as to prove fatal to animal life. The vapor was conducted from some fully ignited fuel into an inclosed space in which there was a middle-sized dog whose condition could be watched. In ten minutes the animal fell exhausted, and in twenty minutes it died, after some hard breathing. A candle burnt with its usual brightness in the closed room, and it was only ten minutes after the death of the dog, that the flame of the candle, from becoming paler and paler, was extinguished. The air of the chamber was at this time collected and analyzed: it contained, in 100 parts—carbonic acid, 4.61; carbonic oxide, 0.54; carbur tted hydrogen, 0.04; oxygen, 19.19; and nitrogen, 75.62. It would thus appear that less than 5 per cent. of carbonic acid is fatal to life when so little as ½ per cent. of carbonic oxide is mixed with it. (Bernard, op. cit. p. 159.) The burning of a candle under the circumstances will also show that oxy-combustion may be maintained in a mixture by which an animal is killed, and therefore that combustion can furnish no criterion of safety in apartments in which charcoal has been burnt.

Symptoms and Appearances after Death.—The following case, illus-

trating the effects of charcoal-vapor, occurred to Mr. Collambell. ("Med. Gaz." vol. 27, p. 693.) In January, 1841, a man was engaged to clean the windows of three small rooms on the basement-floor of a house. The first room had a door opening into a court-yard; the others merely communicated with each other by a central door, and there was no fireplace in any one of them. A brazier of burning charcoal had been placed in the outer room for the purpose of drying it, but it appeared that the deceased had shut the outer door, and had removed the brazier into the inner room of the three, leaving the communicating doors open. In *two hours* the man was found quite dead, lying on the floor of the middle room. The countenance was pale, as well as the whole of the skin; the eyes were bright and staring, the pupils widely dilated, the lips bloodless, the jaws firmly fixed, the tongue protruding, and the face and the limbs were cold. Some frothy mucus had escaped from the mouth. The person who discovered the deceased found the ashes in the brazier still burning, and he experienced great oppression in breathing. An inquest was held, but without an inspection of the body, and a verdict of "accidental death" returned. The body was afterwards privately inspected by Dr. Collambell. On opening the head the vessels on the surface of the brain were found much distended with dark liquid blood; the pia mater was bedewed with serum. The brain was of unusually firm consistency, and numerous bloody points appeared on making a section of it. The lateral ventricles were distended with about an ounce and a half of pale serum, and the vessels of the plexus choroides were much congested. The cerebellum was firm, and presented on section numerous bloody points. About two ounces of serum, tinged with blood, were collected from the base of the skull. The lungs had a slate color. On the left side of the chest there were eight ounces of serum tinged with blood, and nearly an equal quantity on the right side. On cutting into the organs, a large quantity of serous fluid, mixed with blood, escaped. The bronchial tubes were filled with a frothy fluid tinged with blood. The pericardium contained an ounce of pale serum; the heart was enlarged, its cavities contained no blood; the liver and kidneys were, however, much gorged. There was no doubt that the cause of death was the inhalation of charcoal-vapor; and it is probable that the man died from respiring but a comparatively small proportion. The capacity of the chambers must have nearly reached two thousand cubic feet; the deceased had been there only two hours, and when the person who discovered him entered the rooms, the air was not so vitiated but that he could breathe, although with some oppression. The fuel was then in a state of combustion. In a case of death from charcoal-vapor, which was referred to me for examination in 1851, there was a considerable effusion of blood in the submucous tissue of the stomach. This appearance led to a strong suspicion of irritant poisoning. A full investigation of the circumstances, however, showed that the suspicion was unfounded. The vapor had descended through a flue communicating with the bedroom in which deceased slept with her husband; it destroyed the wife, and nearly killed the

husband. A stove with burning charcoal had been placed in the room above that in which the couple slept, and an iron pipe conveyed the products of combustion into a flue, whence they descended into the bedroom and caused the fatal accident. In one fatal case there was copious bleeding from the nose. ("Med. Gaz." vol. 47, p. 412.) In a case which occurred to M. Guérard the liver and spleen were found gorged with a dark liquid blood; the heart was collapsed and its cavities were empty, but liquid and dark-colored blood flowed from the large vessels. The windpipe and bronchi had a red color, and were filled with frothy mucus. The membranes of the brain were congested, and the sinuses gorged with fluid blood. The face was pale, the eyelids were closed, and the pupils natural. There were livid patches over the body. ("Ann. d'Hyg." 1843, vol. 2, p. 57.)

It often excites surprise on these occasions that no exertion is made to escape, when it would apparently require but slight efforts on the part of the person affected. The action of this vapor is very insidious; one of its first effects is to create an utter prostration of strength, so that even on a person awake and active, the gas may speedily produce a perfect inability to move or to call for assistance. For a case illustrative of the dangerous effect of the diluted vapor, see "Ed. Med. and Surg. Journ." vol. 1, p. 541. In this instance a charcoal brazier was left, only for a short time, in the cell of a prison. It was removed, and the prisoners went to sleep. They experienced no particular effects at first, but after some hours two were found dead. Thus, then, an atmosphere which can be breathed for a short time with impunity may ultimately destroy life.

M. Devergie has shown that the smothered combustion of *wood* may lead to the evolution of a noxious vapor (carbonic oxide), and give rise to dangerous consequences. ("Ann. d'Hyg.," 1835, vol. 1, p. 442.) His remarks have been recently confirmed by two cases published by MM. Bayard and Tardieu. A man and his wife were found dead in bed. There was a smoky vapor in the apartment, but no fire had been lighted in the grate, and the chimney was blocked up. The planks of the floor were widely separated, and there was a large hole in the boards at the foot of the bed communicating with the apartment below. It was found, on examination, that some joists connected with the flue of an iron plate, which had been heated for making confectionery the previous day, were in a smouldering state; that the vapor had entered the bedroom of the deceased through the crevices in the floor, and, not finding a vent by the chimney, had led to these fatal results. It is remarkable that the source of combustion was nearly nine yards distant, and one person, who slept nearer to the flue of the iron plate, entirely escaped. In the body of the husband the skin was of a reddish tint, the blood liquid, the cavities of the heart empty, the lungs gorged, and there were no subpleural ecchymoses. In the body of the wife there was less redness of the skin, the blood was coagulated in the cavities of the heart, principally on the right side extending to the vessels; less engorgement of the lungs, and a great number of subpleural ecchymoses, indicating that strong efforts had been made to respire. There was at first a

rumor of poisoning, which was only removed by a close examination of the locality. ("Ann. d'Hyg.," Oct. 1845, p. 369.)

It may be observed in reference to this vapor, that when produced from burning charcoal or wood—in spite of the great density of carbonic acid, the noxious gas is diffused rapidly throughout the whole of an apartment. This is owing partly to the effect of the heated current of air, and partly to the law of the diffusion of gases, whereby heavy and light gases are soon uniformly intermixed.

Carbonic Oxide.—The noxious effects of the vapor of burning charcoal are considered to be partly due to the presence of carbonic oxide. The action of this gas upon animal life has been made a subject of experiment by Bernard ("Leçons sur les Substances Toxiques," p. 164.) An atmosphere containing from 5 to 6 per cent. of it will destroy life. The blood is brightened in color by this gas, while it is darkened by carbonic acid. Bernard has observed that this bright color has been retained for three weeks; and he considers the mode of action of this gaseous poison to be, that it prevents the arterial blood of the body from becoming venous, while carbonic acid operates by preventing the venous blood from becoming arterial. (Op. cit., pp. 182, 195.)

This condition of the blood as a result of the action of carbonic oxide may occasion some doubt of the cause of death, in cases of suffocation by fire. In April, 1858, an inquiry took place into the cause of death of fourteen persons, owing to a fire in a house in Bloomsbury. The medical witness, on examining the bodies, found a redness of the muscles and a redness of the blood. He therefore thought that death was not caused by suffocation, but from the inhalation of arsenical vapors, owing to some minerals containing arsenic having been partially consumed during the fire. But there was a total want of evidence to show that the vapors of arsenic, when breathed, would cause death so speedily as the noxious gases evolved by fire, or that they would redden the blood and muscles. On the other hand, the respiration of carbonic oxide would explain these facts. It is worthy of remark that in many of the observed cases of death from charcoal-vapor, the blood has had a darker color than natural: the greater solubility of carbonic acid, and the larger proportion in which it is produced, may account for this effect.

The action of carbonic oxide on the body is that of a pure narcotic poison. M. Tourdes has ascertained that rabbits died in twenty-three minutes, when kept in an atmosphere containing 1-15th of its volume of pure carbonic oxide; when the proportion was 1-30th they died in thirty-seven minutes, and when 1-8th in seven minutes. Dr. Letheby states that in his experiments a mixture of ½ per cent. killed small birds in three minutes, and of 1 per cent. in about half this time. The animals showed no sign of pain: they fell in a state of insensibility, and either died at once, without convulsions, or they gradually passed into a state of profound coma. He found, on inspection, that the blood was redder than usual, that the muscles of the heart were somewhat gorged, and that the brain was congested. ("Lancet," March 1, 1862, p. 219.) Dr. Hoppe-Seyler states that

animals which had been made to breathe carbonic oxide were restored by continuing for some time artificial respiration, and under these circumstances, the gas was expired as carbonic acid, having undergone further oxidation in the blood. This writer has suggested a method for detecting the presence of carbonic oxide in the blood by spectral analysis. ("Chem. News," Aug. 4, 1865, p. 58.)

Coal and Coke Vapors. Sulphuric Acid.

Products from Burning Coal and Coke.—The gases extricated in the smothered combustion of coal or coke are of a compound nature. In addition to carbonic acid and carbonic oxide, we may expect to find in the atmosphere of a close room in whic such a combustion has been going on, SULPHUROUS ACID GAS, and from coal, in addition to this, the sulphuretted and carburetted hydrogen gases. These emanations are equally fatal to life; but in consequence of their very irritating properties they give warning of their presence, and are therefore less liable to occasion fatal accidents. From an accident which occurred at Colchester a few years since, in which two children lost their lives, it would appear that some persons are so ignorant as to believe that the vapor of coke is less fatal than the vapor of charcoal. The sulphurous acid gas, when existing in a small proportion in air, has the effect of irritating the air-passages so violently that, if accidentally respired, it would commonly compel the person to leave the spot before the vapors had become sufficiently concentrated to destroy life. Nevertheless, accidents from the combustion of coal and coke sometimes occur.

Symptoms and Appearances.—The following cases will convey a knowledge of the symptoms and appearances which may be met with on these occasions. Some years since four persons, in a state of asphyxia, were brought into Guy's Hospital. It appeared that on the previous evening they had shut themselves up in the forecastle of a coal-brig, and had made a fire. About six or seven o'clock on the same evening, some of the crew accidentally placed a covering over the flue on the outside, and thus stopped the escape of smoke from the fire, which was made of a kind of coal containing much sulphur. Early in the morning one of the crew, on opening the hatches, observed three of the inmates lying on the floor senseless and frothing at the mouth, and the fourth in his crib in a similar condition. The air in the place was most offensive. After the men were brought on deck one of them, aged 21, began to recover, and when brought to the hospital he seemed only giddy, as if intoxicated; he soon completely recovered. Another, aged 40, after breathing oxygen-gas and having brandy and ammonia administered to him, showed no symptoms of recovery, but died in a few hours. A third, aged 17, soon began to rally, and in a short time he was able to answer questions; he declared that at the time of the accident he felt no pain, sense of oppression, or weight, either in his head or chest. The fourth, aged 15, died the following day, having shown no symptoms of rallying. Stimulants were administered and warm

fomentations were used, but all efforts to produce reaction failed. The appearances presented by these persons when brought in, were as follows: The lips were purple, the countenance was livid, and the surface of the body cold; the hands and nails were purple; the breathing was quick and short—the pulse small, quick, and feeble; the pupils were fixed, and there was total insensibility. The body of the man aged 40 was inspected four hours after death. The membranes of the brain were congested, and there was a large quantity of fluid under the arachnoid or middle membrane; the sinuses were gorged with blood; the lungs were in a state of great congestion, as were also the right cavities of the heart. It was remarked that, in its congested condition, this corpse was similar in appearance to that of an executed culprit. The body of the lad aged 15 was inspected about thirty-three hours after death. Under the pia mater or inner membrane of the brain was observed one small ecchymosed spot; in the substance of the brain there were more bloody points than usual: a small quantity of fluid was found under the arachnoid membrane, and the sinuses were full of coagulated blood. The lungs showed no congestion, but the right cavities of the heart were much distended with blood. (For a report of cases of recovery from the effects of coal-vapor, see "Med. Gaz." vol. 9, p. 935; also "Dub. Med. Press," Jan. 31, 1849, p. 69, and "Med. Gaz," vol. 43, p. 937.)

Vapors of Lime, Brick, and Cement-Kilns.

Gaseous Products from Lime-burning.—In the burning of lime carbonic acid is given out abundantly, but, owing to the nature of the fuel used, carbonic oxide and sulphurous acid are mixed with it. Persons who have incautiously slept in the neighborhood of a burning lime-kiln during a winter's night, have been destroyed by the respiration of these vapors. The discovery of a dead body in such a situation would commonly suffice to indicate the real cause of death; but a practitioner ought not to be the less prepared to show that there existed no other apparent cause of death about the person. It is obvious that a person might be murdered, and the body placed subsequently near a kiln by the murderer in order to avert suspicion. If there are no marks of external violence, the stomach should be carefully examined for poison; in the absence of all external and internal injuries, medical evidence will avail but little; for a person might be criminally suffocated, and his body, if found under the circumstances above stated, would present scarcely any appearances upon which a medical opinion could be securely based. The vapors of *brick-kilns* are equally deleterious, the principal agent being carbonic acid mixed with carbonic oxide; although I have found that, according to the stage of combustion of the fuel, ammonia, hydrochloric acid, sulphuretted hydrogen, and sulphurous acid may be evolved. In September, 1842, two boys were found dead on a brick-kiln near London, whither they had gone for the purpose of roasting potatoes. Although the cause of death in both cases was clearly suffocation, in one instance the body was extremely livid,

while in the other there was no lividity whatever! Such accidents are frequent: in November, 1844, an inquest was held at Manchester on the body of a man who had died under similar circumstances. The vapors of *cement-kilns* are quite as noxious as those of brick-kilns: carbonic and sulphurous acids predominate in them.

Confined Air.

Symptoms and Effects.—An animal confined within a certain quantity of air, which it is compelled to breathe, will soon fall into a state of lifelessness. A human being in the same way may be suffocated, if confined in a close apartment where the air is not subject to change or renewal, while the products of respiration are accumulated; and the effects are hastened when a number of persons are crowded together in a small space. The change which air, thus contaminated by breathing, undergoes may be very simply stated. The quantity of nitrogen in 100 parts will remain nearly the same; the quantity of oxygen will probably vary from 8 to 12 per cent., while the remainder will be made up chiefly of carbonic acid. If many persons are crowded together the air will acquire a high temperature, and will be saturated with aqueous vapor which contains decomposing animal matter derived from the lungs and skin. From this statement, it is evident that air which has been contaminated by continued respiration will operate fatally on the human body, partly in consequence of its being deficient in oxygen, and partly from the noxious effects of the carbonic acid contained in it. The proportion in which carbonic acid exists in respired air is subject to variation: according to the experiments of Allen and Pepys, it never exceeds 10 per cent. by volume of the mixture, how frequently soever it may have been received into and expelled from the lungs. The influence of respiration on air may be thus stated: An adult consumes from one to two gallons of air per minute, and the air expired contains from 4 to 5 per cent. of carbonic acid; but it is a remarkable fact that, when a person continues to breathe the same air, the proportion of carbonic acid expelled is reduced at each successive respiration. When the amount in air has reached 10 or 12 per cent. no more is thrown off by the lungs, and the blood is no longer depurated. For healthy existence a human being requires 20 cubic feet or 125 gallons of air per hour. A common candle will consume as much as two gallons of air per minute, or render that quantity of air unfit for respiration. Dalton found that the air in crowded rooms contained about 1 per cent. of carbonic acid, the atmospheric proportion being therefore increased nearly twenty-fold. It is certain that insensibility and death would ensue in a human adult before the whole of the oxygen of the confined air had disappeared: but the opportunity can rarely present itself analyzing such a contaminated mixture, and hence it is impossible to specify the exact proportion in which carbonic acid would exist when the confined air proved fatal to persons who had respired it. M. Lassaigne has shown, by direct experiment, that the carbonic acid in the air of close rooms

is not collected on the floor, but equally diffused throughout. The whole mass of air is, in fact, vitiated, and requires renewal. ("Med. Gaz." vol. 38, p. 351; see also "Report on Mines," 1864, App. B, p. 196, and "Chemical News," Feb. 17, 1865, p. 79.)

Coal-Gas. Carburetted Hydrogen.

Coal-gas is a compound which acts directly as a poison when respired. Many fatal accidents have occurred from the respiration of air contaminated with it. Its composition is subject to much variation, according to circumstances. Mitscherlich found that it was principally composed of light carburetted hydrogen, hydrogen, and carbonic oxide, in the proportions of 66 per cent. of the first, 21.3 of the second, and 11 of the third. M. Tourdes found that the proportions of light carburetted hydrogen and carbonic oxide were nearly equal, *i. e.*, about 22 per cent. An analysis of coal-gas as supplied to London shows that in 1000 parts it contains—of hydrogen, 464.3; of light carburetted hydrogen, 389.3; carbonic oxide, 56.2; olefiant gas, 38.6; watery vapor, 24.8; nitrogen, 22.2; carbonic acid, 4.6. The difference in composition depends on the heat to which the gas has been submitted. Some consider that carbonic oxide is the poisonous principle; but there is no doubt that the hydrocarbons also have a specially noxious influence, although the use of the safety-lamp in mines proves that a mixture of light carburetted hydrogen with air in an explosive proportion, may be respired without producing serious effects.

Symptoms and Appearances after Death.—The symptoms produced by coal-gas, when mixed in a large proportion with air, are—giddiness, headache, nausea with vomiting, confusion of intellect, loss of consciousness, general weakness and depression, partial paralysis, convulsions, and the usual phenomena of asphyxia. The appearances after death will be understood from the following cases. In January, 1841, a family residing at Strasburg respired for forty hours an atmosphere contaminated with coal-gas, which had escaped from a pipe passing near the cellar of the house in which they lodged. On the discovery of the accident four of the family were found dead. The father and mother still breathed, but, in spite of treatment, the father died in twenty-four hours: the mother recovered. When the five bodies were inspected there was a great difference in the appearances; but the principal changes observed were, congestion of the brain and its membranes—the pia mater (inner membrane) being gorged with blood, and the whole surface of the brain intensely red. In three of the cases there was an effusion of blood (coagulated) on the dura mater and in the spinal canal. The lining-membrane of the air-passages was strongly injected, and there was spread over it a thick viscid froth tinged with blood; the substance of the lungs was of a bright-red color, and the blood in the vessels was coagulated. ("Ann. d'Hyg." Jan. 1842.) In two cases communicated by Mr. Teale to the "Guy's Hospital Reports" (No. 8), there was found congestion of the brain and its membranes, with injection of the

lining-membrane of the air-passages; the blood was remarkably liquid. An aged female and her granddaughter, who had been annoyed by the escape of gas during the day, retired to bed, and they were found dead about twelve hours afterwards.

Mr. Bloxam has published a case of poisoning by coal-gas, which shows how easily life may be destroyed by it. The appearances in the body are more fully described than usual. In November, 1861, Mr. Bloxam saw the deceased, who was a gas-fitter: he was supported in a sitting posture on the floor. The man had accidentally respired coal-gas while connecting a tube with a meter. The skin was cold, the cornea glazed, and the face pale and placid; there was some froth about the mouth, the pupils were rather dilated, and the limbs supple. There was a strong smell of gas in the place. He was working in a closet, and he was found insensible on the top of a pair of steps in a sitting posture—his head on one side, his arms hanging down, and his back leaning against the wall, in the attitude in which he was engaged at his work. He had evidently died quietly and placidly on his seat, and had made no attempt to descend the steps. He was last seen alive an hour before he was found dead, and he no doubt died rapidly from the inhalation of the gas. An inspection of the body was made twenty-four hours after death. *Externally* the skin of the face and upper part of the body was pale—rigidity was well-marked, and there was general lividity of the back of the body as well as of the limbs. The blood was everywhere fluid. The brain and its membranes were not congested, but were rather pale than otherwise; the ventricles contained a pale serum. The brain and cerebellum were apparently healthy. There was a strong odor of coal-gas on exposing the brain. The lungs were of a dark-red color, and did not collapse on raising the chest-bone; they were dark at the back of the lobes from gravitation of blood; their structure was healthy. The windpipe and bronchi contained frothy mucus in some quantity. A powerful ordor of gas was perceived on compressing the lungs. The heart was healthy; the right cavities were distended with blood—the left were nearly empty; the blood was everywhere black. There was congestion of the abdominal viscera, but no other unusual appearance. ("Med. Chir. Trans." 1862, vol. 45, p. 103.)

In the cases above related, the effects produced by coal-gas were owing to the long-continued respiration of it in a diluted state. The quantity contained in the air of the rooms must have been very small: in M. Tourdes' case it was probably not more than 8 or 9 per cent., because at a little above this proportion the mixture with air becomes explosive; and there had been no explosion in this case, although in the apartment in which the person was found dead, a stove had been for a long time in active combustion, and a candle had been completely burnt out. In Mr. Teale's cases those who entered the house perceived a strong smell of coal-gas, but still the air could be breathed. Coal-gas therefore, like other aërial poisons, may destroy life if long respired, although so diluted as not to produce any serious effects in the first instance! This gas owes its

peculiar odor to the vapor of naphtha: the odor begins to be perceptible in air when the gas forms only the 1000th part, it is easily perceived when forming the 700th part, but the odor is strongly marked when it forms the 150th part (Tourdes). In most houses in which gas is burnt, the odor, owing to leakage, is plainly perceived; and it is a serious question whether health and life may not often be affected by the long-continued respiration of an atmosphere containing but a small proportion. The odor will always convey a sufficient warning against its poisonous effects. It should be known that this gas will penetrate into dwellings in an insidious manner. In Mr. Teale's cases, the pipe from which the gas had escaped was situated about ten feet from the wall of the bedroom where the females slept: the gas had permeated through the loose earth and rubbish, and had entered the apartment through the floor. I have notes of several other cases in which coal-gas has thus destroyed life by leakage into bedrooms.

It is impossible to determine exactly what proportion of this gas in air will destroy life. An atmosphere containing from 7 to 12 per cent. has been found to destroy dogs and rabbits in a few minutes; when the proportion was from 1½ to 2 per cent. it had little or no effect. With respect to man, it may destroy life if long respired when forming about 9 per cent., *i. e.* when it is in less than an explosive proportion. (See "British and Foreign Med. Rev." vol. 20, p. 253; also, "Ann. d'Hyg." 1830, vol. 1, p. 457.) Dr. Aldis observed in his experiments that in ordinary coal-gas mixed with air, rats were rendered insensible in half a minute, and died in a minute and a half to two minutes. There was before death spasmodic action of the diaphragm. The gas was allowed to enter slowly into a bell-jar of air in which the animals were placed. ("Med. and Chir. Trans." 1862, vol. 45, p. 100.)

Sulphuretted Hydrogen.

This gas has a more powerful action on the body than either carbonic acid or charcoal-vapor. Persons are sometimes accidentally killed by it; but the very offensive odor which a small portion of it communicates to a large quantity of air is sufficient to announce its presence, and thus, with due caution, to prevent any dangerous consequences. Sulphuretted hydrogen gas, when respired in its pure state, is instantaneously fatal. It exerts equally deleterious effects upon all animals, and through all the textures of the body, but especially through the lungs.

Symptoms.—The symptoms produced by sulphuretted hydrogen on the human body vary according to the degree of concentration in which it is respired. When breathed in a moderately diluted state, the person speedily falls inanimate. An immediate removal to pure air, and the application of stimulants, with cold affusion, may, however, suffice to restore life. According to the account given by those who have recovered, this state of inanimation is preceded by a sense of weight in the stomach and in the temples; also by giddiness,

nausea, sudden weakness, and loss of motion and sensation. If the gas in a still less concentrated state be respired for some time, coma, insensibility, or tetanus with delirium supervenes, preceded by convulsions, or pain and weakness over the whole of the body. The skin in such cases is commonly cold, the pulse irregular, and the respiration laborious. When the air is but slightly contaminated with the gas it may be breathed for a long time without producing any serious symptoms; sometimes there is a feeling of nausea or sickness, accompanied by pain in the head, or diffused pains in the abdomen. These symptoms are often observed to affect those who are engaged in chemical manipulations with this gas. Sulphuretted hydrogen appears to act like a narcotic poison when highly concentrated, but like a narcotico-irritant when much diluted with air. It is *absorbed* into the blood, to which it gives a brownish-black color, and it is in this state circulated throughout the body. In all cases a noxious atmosphere containing this gas is indicated by an offensive smell producing nausea and sickness. For a case of poisoning by this gas, in which the person recovered, see "Medical Gazette," vol. 43, p. 871.

Appearances after Death.—On examining the bodies of persons who have died from the effects of sulphuretted hydrogen, when respired in a concentrated form, and the inspection is recent, the following appearances have been observed: The mucous membrane of the nose and throat is commonly covered by a brownish viscid fluid. An offensive odor is exhaled from all the cavities and soft parts of the body. These exhalations, if received into the lungs of those engaged in making the inspection, sometimes give rise to nausea and other unpleasant symptoms, and may even cause syncope or asphyxia. The muscles of the body are of a dark color, and are not susceptible of the galvanic stimulus. The lungs, liver, and the soft organs generally, are distended with black liquid blood. There is also great congestion about the right side of the heart, and the blood has been found everywhere liquid and dark-colored: the body rapidly undergoes the putrefactive process. When death has occurred from the respiration of this gas in a more diluted form, the appearances are less marked. There is then general congestion of the internal organs, with a dark and liquid state of the blood. In fact, in such cases the appearances can scarcely be distinguished from those produced by carbonic acid. Four men lost their lives in the Fleet Lane Sewer in February, 1861: they were found dead, and there was no doubt that sulphuretted hydrogen was the cause of death. An account of the appearances presented by the bodies is given in the "Lancet" by Mr. Holden and Dr. Letheby (February 23, 1861, p. 187). The eyes and mouth were open, the lips and tongue livid, the pupils widely dilated, the blood black and fluid, the lungs congested, the heart full of black fluid blood, the right side gorged, and there was a bloody froth in the windpipe. In the brain the large vessels of the dura mater were full of black fluid blood.

In June, 1857, six persons lost their lives, at *Cleator Moor*, near Whitehaven, by the respiration of sulphuretted hydrogen in a diluted

form, by reason of their having slept in small close ill-ventilated rooms, into which the gas had penetrated. Three of the deceased persons—a husband, wife, and child, of one family (*Armstrong*)—had retired to rest, in their usual health, on the night of the 9th of June. Two of them were found the next morning dead in bed, and a third (the child) was found in a state of insensibility, and lingered until the afternoon of the same day, when she died. The fourth, a healthy adult, retired to sleep in his bed, with his door closed, and he was found dead in *an hour*. The fifth, a child, was taken ill on the morning of the 11th, and died the same day. The sixth was taken ill on the morning of the 10th, and died on the 12th of June.

The symptoms complained of by some who recovered were nausea, sickness, giddiness, and insensibility. On inspection of the body of one child, the pupils were found dilated—viscid mucus escaped from the nostrils—there was congestion of the lungs and kidneys, as well as of the membranes of the brain. In the adult who died in an hour, the pupils were natural, the jaws firmly clenched, the fingers contracted, and the nails blue; there was great cadaveric lividity, and a quantity of fluid with frothy mucus issued from the nostrils and mouth. The lungs were much congested, and serum was effused in the cavity of the chest. The heart contained a little fluid blood, and was somewhat flaccid. The membrane of the windpipe and gullet was redder than natural. In the windpipe there was frothy mucus. The stomach, as well as the large and small intestines, were highly congested, but otherwise healthy. The brain and its membranes were greatly engorged with blood, which, as in the body generally, was very dark and fluid. Mr. J. B. Wilson, who examined the body of the child, drew the conclusion, which was confirmed by the subsequent inquiry, that death had been caused by sulphuretted hydrogen. Dr. Thompson, who examined the body of the man, also inferred that some noxious gas or gases had destroyed life. Having been required by the Home Office to investigate the cause of death in these cases, I visited Cleator on the 22d of June, and found that the cottages in which the accidents had occurred, were built upon a heap of iron-slag, which also abutted on the premises behind. This slag contained, among other matters, sulphide of iron and sulphide of calcium. A foul smell, compared to that of cinders extinguished by water, had for some time been perceived about the rooms, chiefly at night, when the doors and windows were closed; and the day before the occurrence a heavy storm of rain had washed through the slag-heap, and aggravated the effects. The heap of slag was burning in certain parts, and sulphuretted hydrogen was evolved in large quantities at a depth of a few feet below. At the time of my visit, *i. e.* a fortnight after the deaths, on removing the flags in the lower rooms, the slag below was found damp, and sulphuretted hydrogen was still issuing from it. The white-lead paint in the closets was partly converted into black sulphuret, and this chemical change was found in patches on the chamber-door of one small room in which two persons had died.

The symptoms, so far as they were observed in the living, the

appearances in the dead bodies, and the chemical nature of the wet slag beneath the foundation, left no reasonable doubt that during the night, with the doors and windows closed, sulphuretted hydrogen had escaped in sufficient quantity to poison the air and destroy life, and a verdict was returned to this effect. A suggestion was made that carbonic acid might have caused the symptoms and death, but there was no source of carbonic acid but the breath; and there is, I believe, no instance known of any adult having breathed himself to death in an hour, in a room containing 600 feet of cubic air—not to mention that persons had slept in similar rooms in the same row of cottages, at a distance from the slag heap, without perishing from such a cause. Another theory was put forward, to the effect that carbonic oxide in the vapors of some blast-furnaces had found its way into the rooms where these persons had died; but the nature of the locality and the distance of the furnaces rendered this impossible. Persons who had left their windows open, whereby these vapors might have entered, escaped, while the deaths occurred only in those houses in which the doors and windows were completely closed. It is highly probable that the sulphuretted hydrogen was mixed with other gases and vapors, as it is never found pure except in a chemical laboratory; but the circumstances proved, left no doubt that this gas was the principal agent of death. This seems to have been clearly established by the fact, that after a channel had been cut through the slag-heap, and the slag removed, no casualty took place.

As in reference to carbonic acid, an atmosphere which may be breathed for a short time with impunity will ultimately destroy life. Sulphuretted hydrogen in a fatal proportion, however diluted or mixed with other vapors, would always be indicated by a disagreeable smell; although from habit, as well as probably from the effects of the gas on the nervous system, this offensive smell might not be perceived when a person had remained for a short time in the poisoned atmosphere. In the cases of the *Halls*, which occurred at Sheffield in 1852, there is reason to believe that the deaths of two persons were caused by the smouldering of ashes in a cesspool ("Association Medical Journal," April, 1853, p. 280.) Mr. Haywood considered that carbonic acid was the agent in this case, although it is probable, from the nature of the materials in which combustion was going on, that sulphuretted hydrogen and other gases and vapors were simultaneously evolved.

Effluvia of Drains and Sewers.—The most common form of accidental poisoning by sulphuretted hydrogen (for it is rare that a case occurs which is not purely accidental) is witnessed among nightmen and others who are engaged in cleaning out drains and sewers, or in the removal of nightsoil. These accidents are much more frequent in France than in England, the soil being often allowed to collect in such quantities in Paris and other large continental cities, as to render its removal a highly dangerous occupation for the workmen. According to the results of Thénard's observations, there are two species of compound gases, or mechanical mixtures of gases which are commonly met with in the exhalations of privies. The first

compound consists of a large proportion of atmospheric air holding diffused through it, in the form of vapor, the *hydrosulphate of ammonia* (sulphide of ammonium). The hydrosulphate is contained abundantly in the water of the soil, and is constantly rising from it in vapor, and diffusing itself in the surrounding atmosphere. It is this vapor which gives the unpleasant and pungent odor to the effluvia, and causes an increased secretion of tears in those who unguardedly expose themselves to such exhalations. The *symptoms* produced by the respiration of this gaseous mixture, when in a concentrated state, bear a close resemblance to those which result from the action of sulphuretted hydrogen gas. If a person is but slightly affected, he will probably complain of nausea and sickness: his skin will be cold, his respiration free but irregular; the pulse is commonly frequent, and the voluntary muscles, especially those of the chest, are affected by spasmodic twitchings. If more strongly affected, he loses all power of sense and motion; the skin becomes cold, the lips and face assume a violet hue, the mouth is covered by a bloody and frothy mucus; the pulse is small, frequent, and irregular —the breathing hurried, laborious, and convulsive; and the limbs and trunk are in a state of general relaxation. If still more severely affected, death may take place immediately; or should the person survive a few hours, in addition to the above symptoms there will be short but violent spasmodic twitchings of the muscles, sometimes even accompanied by tetanic spasms. (See "Ann. d'Hyg." 1829, vol. 2, p. 70.) If the person is sensible he will commonly suffer the most severe pain, and the pulse may become so quick and irregular that it cannot be counted. When the symptoms are of such a formidable nature, it is rare that a recovery takes place. The *appearances* met with on making an examination of the body are similar to those observed in death from sulphuretted hydrogen. The inspection should be made with caution, for a too-frequent respiration of the poisonous exhalations may seriously affect those who undertake it.

[The epidemic which affected so many of the visitors of the National Hotel in Washington, D. C., during the winter and spring of 1857, and well known in the United States as the "National Hotel Disease," affords a remarkable illustration of this form of atmospheric poisoning, in which a large number of persons of both sexes were attacked with violent irritation of the alimentary canal, generally of the large intestine; many having died, after variable periods of illness, and in some instances, after repeated relapses. The symptoms of irritation of the stomach and bowels presented so generally by the guests of this hotel, at a time of high political excitement, gave rise to a suspicion of metallic poisoning, which for a while became the popular belief. The evidence presented at the inquest of the local Board of Health, however, entirely contradicted this theory, and showed not only that no irritant poison could have been used in the food, and that the symptoms were not those of metallic irritation, but that they were those of poisoning by sewer emanations; and that such emanations had been present to a dangerous extent in the

most frequented parts of the house, during the whole of the three months of the epidemic visitation. The officers of the Board of Health discovered a stream of sewer gas which was flowing through a defective inlet, from a badly working culvert, directly into the cellar of the hotel, with force enough to extinguish a lighted candle. Abundant evidence from other sources, equally indisputable, might be presented in corroboration. Repeated instances occurred of individuals being taken ill after a visit to the hotel, who had neither eaten nor drunk anything while in the house; and the offensive smell observed throughout the building, especially in the lower rooms, had been very generally observed. This fetor was aggravated during the prevalence of cold weather; at which time the windows and doors were closed, and the disease increased in violence. The pathological condition was ascertained to be that of ulcerative diarrhœa, "a superficial erythematous or catarrhal inflammation of the mucous membrane of the colon." We have witnessed this peculiar effect of cesspool exhalations, in various degrees, so frequently among prison convicts, that we were satisfied as to its true origin, before the investigations had been undertaken to contradict the erroneous hypothesis of poisoned food or drink. An epidemic of diarrhœa and general intestinal irritation, the exact counterpart of the National Hotel disease, might at any time be developed among the inmates of our prisons by a neglect of the usual cleansing of the privy pans and pipes. See on this subject, "Am. Journ. of Med. Sci." Jan. 1858, p. 97; "Boston Med. and Surg. Journ." vol. lvi. 1857, pp. 305, 371, 422; "New York Journ. of Med." July, 1857, p. 90; "Virg. Med. and Surg. Journ." vol. viii. 1857, pp. 478, 514; "Trans. Coll. of Phys. of Philad." New Series, vol. iii. No. 3, 1857, p. 128.—H.]

Analysis.—The recognition of these gases and vapors is a simple operation. The odor which they possess is sufficient to determine their presence, even when they are diluted with a large quantity of atmospheric air. The *sulphuretted hydrogen gas* is at once identified by its action on paper previously dipped in a solution of salt of lead; if present, even in very small proportion (1-100,000th part), the moistened paper speedily acquires a brownish-black stain from the production of sulphide of lead. It must not be supposed that sulphuretted hydrogen, when it has proved fatal in a *diluted* form, can be detected in the lungs, stomach, or blood of a dead body. When the body is recently removed from a drain or sewer, the gas may be found pervading the whole of the tissues; but in other cases it will be as useless to look for it as for carbonic acid in poisoning by this gas. Noxious gases are not long retained by the tissues; a short exposure will suffice to remove all traces of them. The examination of the locality can alone throw a light upon the cause of death. The proportion of the gas found in an apartment will, however, rarely be a criterion of the quantity which has destroyed life. A person going into a room where the deceased bodies are lying, may notice only a disagreeable or stifling smell, but he may be able to breathe for a longer or a shorter period with the door or window

open. It is not the respiration of a few minutes, but the breathing of the diluted noxious atmosphere for many hours, that really destroys life. The best method of detecting sulphuretted hydrogen when present in a dead body (not putrefied) is to place a piece of card, glazed with lead, in the muscles or soft organs; it will sooner or later be tarnished and acquire a brown color, if the gas be present.

Sulphuretted hydrogen may be proved to exist by the lead-test in the vapor of *hydrosulphate of ammonia* when mixed with air, and the pressure of ammonia indicated in the compound by its volatile alkaline reaction on test-paper; also by holding, in a vessel containing the vapor recently collected, a rod dipped in strong hydrochloric acid; the production of dense white fumes announces the formation of hydrochlorate of ammonia. The presence of this compound vapor in any mixture is at once indicated by introducing paper wetted with a solution of nitroprusside of sodium. The hydrosulphate produces with it a rich crimson color; if sulphuretted hydrogen alone is present, the nitroprusside paper undergoes no change. It is a fact which cannot be too universally known that a candle will readily burn in a mixture of either of these gases with air which, if breathed, would suffice to destroy life. ("Ann. d'Hyg." 1829, vol. 2, p. 69.) The candle-test should be applied with caution in places where these effluvia are collected and confined in sewers or close cesspools. When sulphuretted hydrogen is diffused in a proportion of about 7 per cent. with air it forms a dangerously explosive mixture.

It is worthy of remark that the air of a cesspool may be often breathed with safety until the workmen commence removing the soil, when a large quantity of mephitic vapor may suddenly escape, which will lead to the immediate suffocation of all present. Several persons have been killed by trusting to the previous burning of a candle, in ignorance of this fact. In descending in order to render assistance to those who are lifeless, the person should on these occasions, whether sulphuretted hydrogen or carbonic acid be the cause, make a moderate inspiration of pure air and hold his breath while in the noxious mixture. In an accident which occurred in Whitechapel, in August, 1857, three men died speedily from breathing the vapor of an old sewer, and two others nearly lost their lives in attempting to assist them. The best plan for getting rid of the gas is by a free exposure of the locality, or by exciting active combustion in it. According to Parent-Duchâtelet, men can work in an atmosphere containing from 2 to 3 per cent. of sulphuretted hydrogen. The air of one of the principal sewers of Paris gave the following results, on analysis, in 100 parts: oxygen, 13.79; nitrogen, 81.21; carbonic acid, 2.01; sulphuretted hydrogen, 2.99.

Another gaseous mixture in the form of deoxidized air was found by Thénard in the sewers of Paris; it was composed, in 100 parts, of nitrogen 94, of oxygen 2, and of carbonic acid 4. Sometimes the carbonic acid is combined with ammonia, and then it may be regarded, chiefly, as a mixture of nitrogen holding diffused through it the vapor of carbonate of ammonia, which is sufficient to render it

highly irritating to the mucous membrane of the eyes and nose. Its action on the human body when respired will be readily understood from its chemical composition. In its operation it is essentially negative, and destroys life by cutting off the access of oxygen. The small proportion of carbonic acid or of carbonate of ammonia existing in it cannot give rise to the asphyxia which so rapidly follows its inhalation. The chances of recovery are much greater in persons who become asphyxiated from the inspiration of this compound than in those who are exposed to the influence of the preceding. Commonly the immediate removal to a current of pure air is sufficient to bring about a recovery. Should death take place, it will be found on inspection that the internal appearances are the same as those which are met with in death from suffocation.

Analysis.—This compound has no offensive smell; it extinguishes a taper; the carbonic acid contained in it may be removed by caustic potash, and then it will be seen that the great bulk of the mixture is formed of nitrogen; a gas which, by its negative properties, cannot be easily confounded with any other. In a mixed atmosphere of carbonic acid and sulphuretted hydrogen, the two gases may be separated by agitating the mixture with a solution of acetate of lead, and treating the precipitate with acetic acid, which dissolves the carbonate and leaves sulphide of lead.

LIGHTNING. COLD. HEAT. STARVATION.

CHAPTER XL.

EFFECTS OF THE ELECTRIC FLUID.—POST-MORTEM APPEARANCES, COLD AN OCCASIONAL CAUSE OF DEATH.—SYMPTOMS.—CIRCUMSTANCES WHICH ACCELERATE DEATH.—POST-MORTEM APPEARANCES.—EFFECT OF HEAT.—STARVATION A RARE CAUSE OF DEATH.—SYMPTOMS.—APPEARANCES AFTER DEATH.—LEGAL RELATIONS.

LIGHTNING.

DEATHS from lightning are more common than is generally supposed. Although they usually occur under circumstances in which the facts are known, yet cases may present themselves in which the marks of violence left upon the dead bodies may be suggestive of homicide. Few or no statistics of these deaths have been published in England; but in France the facts collected by M. Boudin show the following results: In twenty-five years—from 1835 to 1863—2,238 persons were killed by lightning. From 1854 to 1864, inclusive, 967 persons were killed, 698 being males, and 269 females.

In the year 1864 alone there were 87 killed, 61 males and 26 females. Of 34 persons killed by lightning in the open fields during the year 1853, 15 were struck while taking shelter under trees; and of 107 persons killed by lightning between 1841 and 1853, 21 are reported to have been killed under trees. Children appear to escape this mode of death more than adults. ("Chemical News," 1865, July 7 and Dec. 8.)

Cause of Death.—The electric fluid appears to act fatally by producing a violent shock to the brain and nervous system. In general there is no sense of pain; the individual falls at once into a state of unconsciousness. In a case which did not prove fatal, the person, who was seen soon after the accident, was found laboring under the following symptoms: insensibility; deep, slow, and interrupted respiration; entire relaxation of the muscular system; the pulse soft and slow; the pupils dilated, but sensible to light. ("Med. Gaz." vol. 14, p. 654.) It will be seen that these are the usual symptoms of concussion of the brain. The effect of a slight shock is that of producing stunning; and when persons who have been severely struck recover, they suffer from noises in the ear, paralysis, and other symptoms of nervous disorder. ("Med. Times," July 15, 1848.) Insanity has even been known to follow a stroke of lightning. (Conolly's "Report of Hanwell," 1839.) In one case the person remained delirious for three days, and when he recovered he had completely lost his memory. ("Lancet," August 3, 1839, p. 582.) A boy, æt. 4, received a severe shock on the 11th May, was seized with tetanus on the 13th, and died in four hours. ("Med. Times and Gaz." May 26, 1855.) In another instance an old man who took shelter under a tree felt as if a vivid flash had struck him in the face; he did not fall, but he became almost blind. He suffered for some days from frontal headache, and loss of sight supervened. ("Med. Times and Gaz." July 24, 1858.)

It may be observed of the effects of lightning, generally, that death is either immediate, or the individual recovers. A person may however linger, and die from the effects of severe lacerations or burns indirectly produced. In a case which occurred in July, 1838, death was thus caused indirectly by the effects of electricity. The following case of recovery illustrates further the action of the electric fluid: Three persons were struck by lightning at the same time. In one, a healthy man, æt. 26, the symptoms were severe. An hour and a half after the stroke he lay completely unconscious, as if in a fit of apoplexy; his pulse was below 60, full and hard; his respiration snoring, his pupils dilated and insensible. There were frequent twitchings of the arms and hands; the thumbs were fixed and immovable, and the jaws firmly clenched. Severe spasms then came on, so that four men could scarcely hold the patient in his bed; and his body was drawn to the left side. When these symptoms had abated he was copiously bled; cold was applied to the head, a blister to the nape of the neck, and mustard-poultices to the legs. Stimulating injections and opium were also administered; in the course of twenty-four hours consciousness slowly returned,

and the man soon completely recovered. The only external injury discoverable was a red streak, as broad as a finger, which extended from the left temple over the neck and chest; this disappeared completely in a few days. ("Brit. and For. Med. Rev." Oct. 1842.) These red streaks or marks sometimes assume a remarkable disposition over the skin. (See case by Dr. Horstmann, Casper's "Vierteljahrsch." April, 1863, p. 308.)

Appearances after Death.—The suddenness of death is such that the body sometimes preserves the attitude in which it was struck. ("Med. Times and Gaz.," Feb. 18, 1860, p. 167.) Generally speaking there are, externally, marks of contusion and laceration about the spot where the electric current has entered or passed out:—sometimes a severe lacerated wound has existed:—on other occasions there has been no wound or laceration, but an extensive ecchymosis, which, according to Meyer, is most commonly found on the skin of the back. In one instance, which occurred in London in May, 1839, there were no marks of external violence; and several similar cases are quoted from American journals in the "Medical Times" (May 3, 1845, p. 82.) The clothes are in almost all cases rent and torn, and partially singed, giving rise to a peculiar odor—sometimes even rolled up in shreds and carried to a distance. They are occasionally found partially burnt, but this is not a frequent occurrence. Metallic substances about the person present traces of fusion, and articles of steel have been observed to acquire magnetic polarity. Dr. West has informed me, that in a case to which he was called, in which a boy, æt. 18, had been instantly struck dead by lightning, he observed that a knife in the pocket of the deceased had acquired strong magnetic polarity. This case further shows that which has frequently been noticed—namely, that while much violence has been done to the dress, the parts of the body covered by it had escaped injury. The deceased wore at the time of the accident a pair of strong leather boots: these were torn to shreds, probably owing to the presence of iron nails in the soles, but the feet of the deceased presented no mark of injury! An accident by lightning occurred in the presence of a friend of mine, by which a healthy man was instantaneously killed. A cap which the man wore had a hole through it; his hair was singed, his shoes were burst open, and his trousers torn. The woodwork of the building down which the electric fluid passed was merely split, and there was no mark of burning. I have examined, in several instances, the wood of trees which have been struck by the electric fluid: in each case it has presented only the appearance of rending by mechanical force.

Wounds and burns are sometimes met with on the body. The wounds have commonly been lacerated punctures, like stabs produced by a blunt dagger. In the case of a person who was struck but not killed, a deep wound was produced in one thigh, almost laying bare the femoral artery. This person was struck, as many others have been, while in the act of opening an umbrella during a storm. Fractures of the bones have not been commonly observed:

in a case mentined by Pouillet, the skull was severely fractured, and the bones were depressed. ("Traité de Physique, Elect. Atmosph.")

In May, 1864, Dr. Mackintosh, of Littleport, was called to see three persons who had been struck by lightning about *twenty minutes* previously. They had taken shelter under a haystack, which had been set on fire by the same flash. 1. A boy, aged 10, was then able to walk, although unable to move his legs immediately after the occurrence. All that he remembered was—he saw the stack on fire, and called to his father; he felt dizzy all over, and unable to move. His hair and clothes were not singed, and the metallic buttons on his dress showed no signs of fusion. On removing his clothes a slight odor of singeing was perceptible. He complained of pain at the lower part of the abdomen. There were several red streaks, of about a finger's breadth, running obliquely downwards and inwards on either side of the chest to the middle line in front of the abdomen; they then descended over the pubes, and were lost in the perineum. It does not appear that there was any abrasion of the skin. This boy perfectly recovered; the red streaks disappeared gradually, and could hardly be traced four days after the injury. 2. Another boy, aged 11, lay prostrate and unconscious, with an expression of grim terror and suffering; he frothed at the mouth, moaned piteously, and flung his legs and arms about in all directions. The breathing was deep, slow, and laborious; the heart palpitating, pulse weak and very irregular; the pupils were dilated, and insensible to light. There were in this case several red streaks converging from the neck and shoulders to the middle of the chest-bone, and passing over the abdomen until they were lost on the pubes. There were similar streaks radiating for a few inches from the tuber ischii on each hip in different directions, until they were lost in the skin. It appears that this boy was in a sitting posture when struck. The hair on the back of his head and nèck was singed, and the peculiar odor of singeing was perceived, although his clothes showed no traces of burning, nor the metallic buttons of fusion. The boy became conscious in five hours, and rapidly recovered. The red streaks gradually disappeared, leaving streaks of a scaly glistening white appearance, which ultimately left no trace of their existence. 3. A man, aged 46. Like the two others, he was in a sitting posture, and he appeared to have been killed on the spot: he had not moved hand or foot. The countenance was placid, and the pupils were widely dilated. The electric fluid had produced a large *lacerated wound* of the scalp, at the junction of the occipital with the parietal bones, but without producing any fracture. The electric fluid appeared to have passed down each side of the head, between the soft parts and the cranium. On the left side it had passed downwards in front to the left ear, and terminated on the side of the neck, rupturing bloodvessels and muscles, and causing swelling of the parts with effusion of blood. It presented the appearance of an extensive bruise caused by mechanical violence. On the right side the current had passed down to the space above the collar-bone, causing lividity and swelling of the right ear as well as of the adjacent skin; and it terminated in a dark-blue mangled patch of skin, in which there were

several free communications with the surface. The hair on the back of the head was slightly singed, and that in front of the chest was singed quite close to the skin, but the hair which covered the wound in the scalp, where the current had entered, was uninjured. The clothes were neither torn nor burnt, and the metallic buttons were not fused. The clothes of all three were very wet. The hat was not examined. The left side-pocket of the trousers contained several lucifer-matches and a tin tobacco-box, which were unaffected by the electric discharge. The right pocket contained a knife, which had acquired strong magnetic polarity. The body was placed in a warm room, and it is worthy of remark that cadaveric rigidity came on in fourteen hours after death. ("Lancet," July 30, 1864, p. 118.) It is to be regretted that no post-mortem examination was allowed. It is probable that the brain sustained severe injury, causing immediate death. These cases singlarly present the effects of lightning in three degrees—the effect of a slight shock in No. 1, of a severe shock in No. 2, and of a fatal shock in No. 3. There was but little bodily injury in either case, and no appearance of burning. The marks on the skin in Nos. 1 and 2 could not have been mistaken for violence, but the wound to the scalp and the injuries to the neck in No. 3 might have been ascribed to the violence of another, had not the circumstances been fully known. The clothes probably escaped burning or tearing by reason of their being wet, and their readily conducting the electric fluid.

The *burns* occasionally found on the bodies of persons who have been struck by lightning have been hitherto ascribed to the ignition of the clothes. It appears, however, from the subjoined cases, that burns even of a severe kind may be the result of a direct agency of the electric fluid itself upon the body. Dr. Geoghegan met with the case of a girl who had been struck by lightning; there was burning of the thigh and buttocks to the first and second degrees, but the clothes did not show any signs of combustion. On the 16th of July, 1852, a man, æt. 23, while engaged in milking a cow in a wooden shed, during a severe thunder storm, suddenly observed a vivid flash of lightning, which killed the cow instantly, and inflicted serious injuries upon himself. He was seen sixteen hours after the accident, and a severe burn was found upon his person, extending from the right hip to the shoulder, and covering a large portion of the front and side of the body. His mind was then wandering, and there were symptoms of inflammatory fever. The man was confined to his bed for seventeen days, at the end of which time the injuries had not perfectly healed. On examining his dress, the right sleeve of his shirt was found burnt to shreds, but there was no material burning of any other part of the dress. The case is singular, inasmuch as it shows that the dress may be burnt without the surface of the body being simultaneously injured; and further, that a burn may be produced on the body, although the clothes covering the part may have escaped combustion. Mr. Fleming has described the cases of eight persons who were struck by lightning, and on the bodies of some of these there were marks of severe burns. The dresses were,

in parts, much singed. These cases show, in a remarkable manner, the intense heat evolved in the instantaneous passage of the electric fluid through the clothes and body. The persons struck were benumbed or paralyzed in various degrees, but all ultimately recovered; but the burns were so severe that some months elapsed before they were entirely healed. ("Glasgow Med. Journal," Oct. 1859, p. 257.) A man was struck by lightning in July, 1861. Externally there was a burn upon the nape of the neck, where the metallic watchguard rested; and from the point where the current of electricity left the chain the skin was blistered in a straight line down to the feet, scorching the hair of the pubes in its course. His intellect was confused, and his general condition was that of collapse. With the aid of stimulants, he became sufficiently restored to communicate his feelings. There was paralysis of the lower extremities, with loss of sensibility (anæsthesia), and retention of urine. He was deaf, and complained of a noise in his ears like thunder; he had some difficulty in articulating and pain in swallowing, with a peculiar metallic taste in his mouth. The anæsthesia passed away in half an hour, but he did not completely recover the use of his limbs for four days; the bladder was paralyzed for twenty-four hours, and only relieved by the use of a catheter, of high-colored urine with abundance of phosphates; the bowels were confined. All these symptoms gradually disappeared, excepting slight deafness, and the man was discharged convalescent.

The following complete account of the external and internal appearances found in the body of a healthy middle-aged laborer, who was killed by a stroke of lightning, has been published by Dr. Schaffer: The man was working in the fields with several other laborers, just after a thunder storm had passed over, and had apparently subsided. He was endeavoring to kindle a light with a flint and steel, when the lightning struck him. For a moment after the shock he stood still, and then his body fell heavily to the ground. The electric fluid entered at the upper part of his forehead, perforating and tearing his hat at that part; it seemed then to have become divided into two currents, which passed down the sides of the body, along the lower limbs, and out at the feet. On the upper part of the forehead was found a soft swelling, of a dark-blue color, and about the size of the palm of a hand; the hair which covered it was uninjured. From this spot two dark red streaks proceeded in different directions. One of these passed to the left, running over the temple, in front of the left ear, down the neck to the surface of the chest, over which it passed between the left nipple and the armpit; and so made its way over the body to the left inguinal region, where it formed a large, irregular, scorched-looking (brandige) patch on the skin. From this point, a dark-red streak again continued its downward course, passing over the great trochanter, then along the outer surface of the left leg to the back of the foot, where it terminated in several small dark-blue spots. The other streak, which proceeded from the ecchymosed swelling on the forehead, passed directly to the right ear, which was considerably swollen and of a

dark-blue color; from the ear it ran downwards and backwards along the neck, crossed the right border of the scapula, and eventually reached the right groin, where a scorched patch of skin similar to that in the left groin was found. From this part the discolored streak continued down the outer side of the right leg to its termination on the back of the foot, just as on the left side. It is remarkable that although the hair on the forehead, as well as that which occurred in any part of the track taken by the electric current down to the groin, was not burnt, yet at the groin itself, and at every part hence to the foot over which the electric stream had passed, the hairs were completely burnt. The cause of the skin and hair in the groins being burnt is probably to be referred to the buckles of a belt which the man wore round his abdomen at the time of the accident; the belt was completely destroyed. Nothing further worthy of notice was observed on the exterior of the body, with the exception of the face being very red. The swelling of the head was found to be due to the presence of a large quantity of extravasated blood. The bone beneath was not injured. Blood was effused in other parts of the scalp corresponding to the swollen discolored patches outside; about four ounces had been effused. The vessels of the cerebral membranes were greatly congested, and the brain itself contained much blood, especially observed in the choroid plexuses. A large quantity of reddish mucus was found in the larynx, windpipe, and air-tubes; the lungs were loaded with dark blood; there was a great deficiency of blood in the cavities of the heart and in the large vessels; the blood-vessels of the stomach and intestines were more than usually congested; the right lobe of the liver was of a dark-red color, and loaded with blood, especially the part which corresponded to the burnt patch of skin at the lower part of the abdomen; the spleen also was large, and filled with blood. Much blood was found accumulated in the substance of the muscles of the abdomen, at those parts which lay beneath the burnt surfaces outside. ("Oesterreich. Med. Wochenschrift," 6th June, 1846.) It was formerly supposed that the blood was never found coagulated in persons killed by lightning, and that the body did not become rigid after death. Experience has shown, however, that these statements are not in accordance with observed facts.

Ecchymoses resembling those produced by mechanical violence and of great extent are sometimes met with. A short, muscular man was killed by lightning. There was a strong smell of burning about the body. The hair was singed considerably at the back of the head, at the nape of the neck, and slightly above the forehead, at each corner of which there was a dark ecchymosis. The scalp was greatly ecchymosed at the top and at the back of the head. There was a large ecchymosis at the nape of the neck, and from this a livid band half an inch broad curved round the right side of the neck, and terminated in a large ecchymosis at the sternal end of the right clavicle. The left forearm was scorched in front, and along the centre of the scorched surface ran a dark line about three or four lines broad. There was a slight ecchymosis on the right thigh and on the right side

of the scrotum. About half way down the right leg was an extensive scorch encircling the leg, and a line of about three-quarters of an inch in breadth ran down the inner side of the leg to the sole. The soles of both feet were extensively blistered, and the cuticle charred. The clothing corresponding to the injured parts was extensively scorched, and large holes were burnt in the soles of the socks. The boots were scorched inside, but not injured outside, although there were iron nails in the soles. Excepting the nails in the boots there was no metal about the body. The pupils were widely dilated. Cadaveric rigidity was unusually marked, requiring great force to overcome it. The inner surface of the scalp was ecchymosed. The brain appeared bloodless and soft, and there was but little fluid in the ventricles. The veins and sinuses of the base were filled with dark fluid blood. The heart was flabby; the right ventricle contained a small quantity of dark fluid blood; the great veins were distended with very dark blood, everywhere perfectly fluid. There was no coagulum or clot in any part, and the blood showed no tendency to coagulate after its escape. The lungs were much congested posteriorly and very soft. ("Med. Times and Gaz." Oct. 14, 1865, p. 418.)

The external injuries in these cases resemble those caused by violence, but the peculiar form, extent and direction of the ecchymoses, as well as the presence of marks of burning, either on the clothes or the body, were sufficient to distinguish them as injuries produced by the electric fluid.

Legal Relations.—Rare as the combination of circumstances must be in which a medico-legal question can arise in reference to the action of the electric fluid on the body, a case was tried in France, in October, 1845, in which medical evidence respecting the characters of wounds caused by electricity was of considerable importance. In August of that year some buildings were destroyed at Malaunay near Rouen, as it was alleged, on the one side by a thunderstorm, on the other by a whirlwind; and as the parties were insured against lightning, they brought an action for recovering the amount insured. The evidence in favor of the accident having been due to electricity consisted—first, in the alleged carbonized appearances of the leaves of some trees and shrubs growing near; and secondly, in the characters of the wounds on the bodies of several persons who were injured at the time of the occurrence. M. Lesauvage stated at the trial that there was an appearance of dark stains scattered over the bodies, and that those who survived suffered from torpor, pains in limbs, and a partial paralysis of motion. He observed, also, that decomposition took place very speedily in the bodies of those who were killed. In one instance the muscles were torn and lacerated, and some small arteries divided. This witness attributed most of the wounds to the effects of electricity. M. Funel deposed, that in some of the dead bodies which he examined the face and neck were bloated and discolored, as if death had taken place from asphyxia. It does not appear, however, that there were any circumstances decisively proving that the buildings had been destroyed by light-

ning. M. Pouillet has given an accurate description of the storm: he believed that although, as deposed to by some of the witnesses at the trial, it may have been attended with thunder and lightning, the buildings with the surrounding trees were overthrown by the mere force of the wind, and not by the electric fluid. The description given bears out this view, but at the same time it is unusual that trees when struck, unless old or dry and withered, should present any marks of combustion about the leaves or trunk. (See "Comptes Rendus," Sept. 1845; also "Med. Gaz." vol. 36, p. 1133.) The scientific evidence was of the most conflicting kind. The Royal Court of Rouen decided that the disaster was occasioned by the atmosphere; and, without entering into the various theories of storms, condemned the insurance companies to pay the amounts claimed. ("Law Times," March 14, 1846, p. 490.)

Cold.

Cause of Death.—The protracted exposure of the human body to a low temperature may destroy life; and although in this country cases but rarely occur in which cold alone operates fatally, it is not unusual, during a severe winter, to hear of persons in a state of misery and destitution, being found dead in exposed situations. On these occasions we may reasonably suspect that the want of proper food and nourishment has accelerated death. It is, however, convenient to make a distinction between the effects of cold and of starvation on the system, as the symptoms preceding death and the rapidity with which it takes place, are different in the two cases.

Symptoms.—A moderate degree of cold is well known to have an invigorating effect upon the body: but if the cold be severe, and the exposure to it long-continued, while the calorific function is not maintained by warmth of clothing or exercise, the skin becomes pale, and the muscles become gradually stiff and contract with difficulty, especially those of the face and extremities. Sensibility is lost, a state of torpor ensues, followed by profound sleep from which the person cannot be readily roused: in this state of lethargy the vital functions gradually cease, and the person finally perishes. Such are the general effects of intense cold upon the body: its influence on the nervous system is seen in the numbness, torpor, and sleepiness which have been described as consequences of a long exposure to severe cold. Giddiness, dimness of sight, tetanus, and paralysis have in some cases preceded the fatal insensibility. It has been found that temperature materially affects the amount of oxygen taken by the blood. At a low temperature this fluid takes less oxygen; hence it becomes less oxygenated, and this state of the blood affects the condition of the brain and nervous system. (Bernard, op. cit. p. 114.) It was observed during the retreat of the French from Moscow, that those who were most severely affected by cold often reeled about as if in a state of intoxication; they also complained of giddiness and indistinctness of vision, and sank under a feeling of lassitude into a state of lethargic stupor, from which it

was found impossible to rouse them. Sometimes the nervous system was at once affected: tetanic convulsions followed by rigidity of the whole of the voluntary muscles, seized the individual, and he rapidly fell a victim. Symptoms indicative of a disturbance of the functions of the brain and nervous system have also been experienced by Arctic travellers during their residence within the Polar circle. The late researches of M. Pouchet on the effects of a freezing temperature on animals have led him to the conclusion that death is due to a physical change in the blood-globules, and not to any effect on the nervous system. The first phenomenon produced by cold is a contraction of the capillary vessels to such an extent that the blood-globules cannot enter them; these vessels, therefore, remain completely empty. The second phenomenon is an alteration of these globules, amounting to their complete disorganization. Under these circumstances an animal cannot be restored. ("Chemical News," Dec. 1, 1865, p. 263.) A human being may, however, perish from a degree of cold not sufficient to produce congelation.

Circumstances which Accelerate Death.—There are certain conditions which may accelerate death from cold. In all cases in which there is exhaustion of the nervous system—as in those who are worn out by disease or fatigue, in the aged and infirm, or, lastly, in persons who are addicted to the use of intoxicating liquors—the fatal effects of cold are more rapidly manifested than in others who are healthy and temperate. It has been uniformly remarked that whenever the nervous energy is impaired, either by intoxication or exhaustion from fatigue, a man dies quickly from cold. The exposure of drunken persons, during a severe winter, may therefore suffice to destroy life, although the cold might not be so intense as to affect others who were temperate. Casualties of this nature sometimes occur during the winter-season in this metropolis; and a knowledge of the influence of intoxication, in accelerating death under such circumstances, may occasionally serve to remove a doubt in the mind of a practitioner respecting the real cause. Infants, especially when newly born, easily perish from exposure to cold. Cold, when accompanied by rain and sleet, appears to have a more powerfully depressing influence than when the air is dry—probably from the effects of evaporation. The following case by Dr. Currie shows the fatal effects of cold winds accompanied by humidity: "Of several persons who clung to a wreck, two sat on the only part that was not submerged; of the others, all were constantly immersed in the sea, and most of them up to the shoulders. Three only perished, two of whom were generally out of the sea, but frequently overwhelmed by the surge, and at other times exposed to heavy showers of sleet and snow, and to a high and piercing wind. Of these two, one died after four hours' exposure; the second died three hours later, although a strong healthy adult, and inured to cold and hardship; the third that perished was a weakly man. The remaining eleven, who had been more or less completely submerged, were taken from the wreck the next day, after twenty-three hours' exposure, and they recovered. The person among the whole who seemed to

have suffered least was a negro: of the other survivors, several were by no means strong men, and most of them had been inured to the warm climate of Carolina."

Appearances after Death.—Opportunities rarely occur of examining bodies when death results purely from exposure to cold. The skin is commonly pallid, and the viscera of the chest and abdomen as well as the brain are congested with blood. Dr. Kellie, of Leith, found in two cases which he examined, a redness of the small intestines from the congestion of the capillary vessels, and a great effusion into the ventricles of the brain. A sufficient number of cases have not yet been inspected, to enable us to determine how far these two last-mentioned appearances are to be regarded as consequences of death from cold; but all observers have found a general congestion of the bloodvessels and viscera. In consequence of the great congestion uniformly met with in the vessels and sinuses of the brain, some pathologists have regarded death from cold as resulting from an attack of apoplexy; but the symptoms which precede death do not bear out this view. Effusions of blood have not yet been observed, and a mere fulness of the cerebral vessels after death is not in itself sufficient to justify this opinion. It will be observed that, on the whole, these appearances are remarkably similar to those which are found in death from severe burns and scalds. Thus then a medical jurist will perceive, that in order to come to a decision whether, on the discovery of a dead body, death has taken place from cold or not, is a task of some difficulty. The season of the year—the place and circumstances under which the body of the deceased is found—together with the absence of all other possible causes of death (such as from violent injuries or internal disease), form the only basis for a medical opinion. Death from cold is not to be determined except by negative or presumptive evidence; for there is no organic change, either externally or internally, sufficiently characteristic of it to enable a medical man to give a positive opinion on the subject.

Heat.

Intense Heat.—The effect of an intensely-heated atmosphere in causing death has been but little studied. I have been consulted in one case in which the captain of a vessel was charged with manslaughter, for causing a man to be lashed within a short distance of the stoke-hole of a steam-furnace in the hold of a vessel. The man died apparently from the effects of this exposure. The engine-rooms of steamers in the tropics have been observed to have a temperature as high as 140°; and engineers after a time become habituated to this excessive heat, without appearing to suffer materially in health. In certain manufactures the body appears to acquire a power, by habit, of resisting these high temperatures—still it has been proved that many suffer severely. In a Report on the Employment of Children (1865), it is stated than in a glass manufactory a thermometer held close to a boy's head stood at 130°, and, as the Inspector

stood near to observe the instrument, his hat actually melted out of shape. Another boy had his hair singed by the heat, and said that his clothes were sometimes singed too; while a third worked in a temperature of no less than 150°. Amid this tremendous heat they carry on work which requires their constant attention: they are incessantly in motion. In the Turkish bath higher temperatures than this have been noted, but there is reason to believe that serious symptoms have been occasionally produced in persons unaccustomed to them, and that in one or two cases death has resulted. In attempting to breathe air heated to temperatures varying from 180° to 200°, there is a sense of suffocation with a feeling of dizziness and other symptoms indicative of an effect on the brain: the circulation is enormously quickened.

In July, 1861, an inquest was held in London on the body of a stoker of an Aberdeen steamship. He had been by trade a grocer, and was not accustomed to excessive heat. While occupied before the engine furnace he was observed to fall suddenly on the floor in a state of insensibility; when carried on deck it was found that he was dead. All that was discovered on a post-mortem examination was an effusion of serum into the ventricles of the brain; death had been caused by sudden apoplexy. In some cases a person may sink from exhaustion as a result of long exposure. Intense heat appears generally to operate by inducing congestion of the brain (heat-apoplexy). The death is usually sudden, as from severe apoplexy. During the hot summer of 1865 several deaths from this cause are reported to have occurred. In India, also, many sudden deaths took place from sun-stroke or heat-apoplexy during the hot season of 1865.

Starvation.

A rare Cause of Death.—Death from the mere privation of food is a rare event, although, if we were to form an opinion from the verdicts of coroners' juries, its occurrence would not appear to be uncommon in this and other large cities. In one of the Annual Registration Returns it is stated that 130 persons died from starvation. Such cases must, however, be received with some distrust, as care is rarely taken to ascertain precisely how far bodily disease may have been concerned in causing death. Still it cannot be denied that starvation should be classed among the forms of violent death, being sometimes the result of criminal neglect or inattention in the treatment of children or of infirm and decrepit persons, and thus constituting homicide; or at other times, although rarely, arising from an obstinate determination to commit suicide in those from whom all other means of self-destruction are cut off.

Symptoms.—The symptoms which attend on the privation of food, or the supply of improper food, have been variously described. Referring to cases which occurred during the Irish famine of 1847, Dr. Donovan states that the persons who suffered described the pain of hunger as at first very acute, but said that after twenty-four

hours had been passed without food, the pain subsided, and was succeeded by a feeling of weakness and sinking, experienced principally in the region of the stomach; accompanied with insatiable thirst, a strong desire for cold water, and a distressing feeling of coldness over the entire surface of the body. In a short time the face and limbs became frightfully emaciated; the eyes acquired a peculiar stare; the skin exhaled an offensive smell; and was covered with a brownish filthy-looking coating, almost as indelible as varnish. This he was at first inclined to regard as incrusted filth, but further experience convinced him that it was a secretion poured out from the exhalants on the surface of the body. The sufferer tottered in walking, like a drunken man: his voice was weak, like that of a person affected with cholera; he whined like a child, and burst into tears on the slightest occasion. In respect to the mental faculties, their prostration kept pace with the general wreck of bodily power; in many there was a state of imbecility, in some almost complete idiocy; but in no instance was there delirium or mania, which has been described as a symptom of protracted abstinence among shipwrecked mariners. ("Dub. Med. Press," February, 1848, p. 67.)

Among the symptoms there is severe pain in the region of the stomach, a suppression of the fæces, or, if discharged, they are in small quantity, dry, and dark-colored; the urine is scanty, high-colored, and turbid; the intellect is dull. The person may be exhausted, and remain without motion in one position, or be seized with a furious delirium, which may drive him to acts of violence. In the last stage the body is reduced to an extreme state of emaciation, and before death it evolves an offensive odor, like that of incipient putrefaction. The excretions have also a putrescent odor. The surface of the skin may be covered with spots (petechiæ), and the person finally dies, in some cases slightly convulsed. (Op. cit. p. 415.) M. Chassat found, in his experiments on animals, that in some instances the animal died after having had successive attacks of convulsions. (Beck's "Med. Jur." vol. 2, p. 80.)

In a case which fell under the notice of Dr. Sloan, a healthy man, æt. 65, was by an accident shut up in a coal-mine for twenty-three days without food. When found he was conscious, and he recognized and named his deliverers. He was so weak that he could scarcely raise his hand to his mouth, and so much emaciated as to excite the surprise of his fellow-workmen by the extreme lightness of his body. Under careful treatment he so far recovered as to give an account of his feelings. For the first two days hunger was his most urgent symptom. This passed off, and he then began to suffer from severe thirst, which he allayed by drinking some foul water. After ten days he became so weak that he was unable to move from the spot where he had lain down. He slept but little, and not soundly—never entirely losing the consciousness of his situation. His bowels acted only once, but he passed urine freely. The matter brought from his bowels by injections was dark-colored, like meconium, and very fetid. He died on the third day after his removal, in spite of every effort to save him, and on the day of his

death he was in the following state: his features were sharp and pale, his eyes sunk; the skin of the abdomen seemed to touch the backbone, which could be distinctly felt through it; his body presented more emaciation than Dr. Sloan had ever seen produced by disease; he had altogether a dried appearance, very much like that of natural mummies found in catacombs; his pulse was gone; his voice was in a whisper, like the *vox cholerica;* there was uneasiness, increased by pressure, in the region of the stomach; his intellect was sound, and remained so until death. ("Med. Gaz." vol. 17, p. 265.) This case confirms the observation of Dr. Donovan, that delirium is not a necessary attendant on protracted abstinence: and it proves incontestably that a person may die from the effects of abstinence or starvation, in spite of the best-directed efforts for recovery. Mr. Thornhill reports, in the same journal, the cases of eight men and a boy who were shut up in a coal-mine for eight days without food ("Med. Gaz." vol. 17, p. 390); but the symptoms here noted were rather those of hunger than of long abstinence. They all suffered from excessive thirst; they were all troubled with ocular illusions, showing cerebral excitement. The occurrence of ocular spectra, and other symptoms indicative of a depressed state of the nervous system, has also been noticed by Casper. ("Handbuch der Ger. Med." 1857, vol. 1, p. 374.) According to Dr. Martin, the emaciation in starvation is characteristic; it is a withering or shrivelling up of the skin, which has lost its elasticity, giving to youth the aspect of age. Death, when not hastened by disease, is slow and imperceptible, or it is precipitated by syncope from sudden effort, or by exposure to severe cold. Delirium is not, according to him, a symptom of starvation. ("Med. Times and Gaz." March 30, 1861, p. 344.) The period which it requires for an individual to perish from hunger is subject to variation: it will depend materially upon the fact whether a person has had it in his power or not to take at intervals a portion of liquid, to relieve the overpowering thirst which is commonly experienced. The smallest portion of liquid, thus taken occasionally, is found to be capable of prolonging life. It is probable that in a healthy person, under perfect abstinence, death would not commonly take place in a shorter period than a week or ten days. This opinion appears to derive support from the results of those cases in which there has been abstinence owing to disease in the throat and difficulty of swallowing food. Age, sex, state of health, and the effects of exposure to cold, may accelerate or retard a fatal termination.

Appearances after Death.—There are but few details of the appearances presented by the bodies of those who have died from starvation, and the cases themselves are too rare to enable us to decide with certainty upon the accuracy of the reports which have hitherto appeared on the subject. The body is shrunk and emaciated, and remarkable for its lightness. The skin is dry, shrivelled, and free from fat. The muscles are soft, deprived of fat, and much reduced in size. The stomach and intestines are usually found collapsed, contracted, and empty—the mucous membrane being thinned and

sometimes ulcerated. The liver, lungs, heart, kidneys, and the great vessels connected with these organs are collapsed and destitute of blood; the heart and kidneys free from any surrounding fat—the gall-bladder distended with bile—the omentum shrunk and destitute of fat. In Dr. Sloan's case (supra) the body was observed to be extremely emaciated; the intestines were collapsed, the stomach was distended with air, and slightly reddened at its greater extremity. The omentum had almost disappeared; it was entirely destitute of fat. The liver was small, and the gall-bladder distended with bile. The other viscera were in their normal state. ("Med. Gaz." vol. 17, p. 389.) Mr. Tomkins, of Yeovil, inspected the body of a man who died from starvation in February, 1838. The face was much shrunk and emaciated; the eyes were open, and presented a fiery red appearance, as intense as in a case of acute ophthalmia during life. This red appearance has been met with by Dr. Donovan in death from exposure to cold. ("Dublin Med. Press," Feb. 2, 1848, p. 66.) The skin was tough, and there was scarcely any cellular membrane to be seen. The tongue, lips, and throat were dry and rough. A peculiar odor was exhaled from the body. The lungs were shrunk and contracted; the investing membrane was slightly inflamed. The stomach and intestines were empty, but quite healthy; the gall-bladder was nearly full of bile, and the surrounding parts were much tinged by this liquid. The urinary bladder was empty and contracted. ("Lancet," March, 1838.) In some cases inspected during the Irish famine, Dr. Donovan states that the appearances which he witnessed were extreme emaciation, total absorption of the fatty matter on the surface of the body, total disappearance of the omentum, and a peculiarly thin condition of the small intestines, which in such cases were so transparent, that if the deceased had taken any food immediately before death, the contents could be seen through the coats of the bowel; on one occasion (at an inquest) he was able to recognize a portion of raw green cabbage in the duodenum of a man who had died from starvation. This thin condition of the coats of the intestines he looks upon as the strongest proof of this mode of death. The gall-bladder was usually full, and the parts in the vicinity of it were much tinged by the cadaveric exudation of bile; the urinary bladder was generally contracted and empty, and the heart pale, soft, and flabby; there was no abnormal appearance in the brain or lungs. Dr. Martin assigns as a condition of the intestines diagnostic of starvation, that they are not only contracted but shrunken and diminished in size, shortened in length as well as in calibre, and like a mere cord, as if the canal was obliterated. ("Med. Times and Gazette," March 30, 1861.) He met with this state in three cases: once in starvation from want of food, and twice from total obstruction to its ingestion. Mr. Fletcher found the following appearances in the case of two children, named *Aspinall*, who died from starvation—the elder aged one year and ten months, the younger four months. In the body of the elder there was extreme emaciation, without the slightest trace of disease in any of the viscera. Some dirty creamy fluid and four cherry-stones were found

in the small intestines, but no distinctly fecal matter, a few grains of which, however, were found in the large intestines; scarcely a trace of fat was visible. In the infant the same appearances were presented, although the emaciation had not proceeded to the same extent. The evidence produced on the trial proved that the mother spent in drink the money given to her for household expenses, and that the children's food and clothing were neglected. The prisoners were tried for wilful murder, in accordance with the verdict of the coroner's jury. The judge ruled that the wife in law was the husband's servant, and if it were proved that he had supplied her with sufficient money, he must be acquitted; if he had not, the wife must be acquitted. The jury acquitted the man and brought in a verdict of manslaughter against the woman, who was sentenced to two years' imprisonment. ("Proceedings of Liverpool Medical Society," 1855–56.) In some of these alleged deaths by starvation, ulceration of the bowels is met with. This has been considered to arise from want of food; but Dr. Donovan did not meet with it in those who died of lingering starvation. ("Dublin Med. Press," Feb. 2, 1848, p. 66.)

These appearances, in order to throw any light upon the cause of death, should be accompanied by an otherwise healthy state of the body; since, as it is well known, they may be produced by many organic diseases, and death may be thus due to disease, and not to the mere privation of food. It will not be always easy to say whether the emaciation depends on disease or want of food, unless we are put in possession of a complete history of the case. On this account, in all charges of homicidal starvation, the defence generally turns upon the coexistence of disease in the body, and the sufficiency of this to account for death.

PREGNANCY.

CHAPTER XLI.

SIGNS OF PREGNANCY.—SUPPRESSION OF THE MENSES.—QUICKENING.—SOUNDS OF THE FŒTAL HEART.—FEIGNED PREGNANCY.—CONCEALED PREGNANCY.—PREGNANCY IN THE DEAD.—IMPREGNATION IN A STATE OF UNCONSCIOUSNESS.—LEGAL RELATIONS.

Signs of Pregnancy.

Suppression of the Menses.—It is well known that in the greater number of healthy females, so soon as conception has taken place, this secretion is arrested. But there are certain abnormal conditions which must not be overlooked. There are some cases recorded which show that women in whom the menses have never appeared may become pregnant. This, however, is allowed by all accoucheurs to be rare; and when it occurs, which we may readily learn from the account of the woman, it will be necessary to search for other signs in order to determine the question of pregnancy. Irregularity as to the period at which the function takes place is common among females. This irregularity may depend upon the age of the person, or upon disease, either of which causes it will not be difficult to recognize. Their continuance after conception may make a pregnancy appear short. A case is reported in which a woman was married in the summer of 1856, and the menses continued after as before marriage. In October, 1857, they ceased for the first time, and in the following December the woman was delivered of a full-grown child; as the abdomen was not much enlarged, she thought she was only two months pregnant. ("Med. Times and Gaz." April 30, 1850.) It is well known that there are numerous disorders of the uterus under which, irrespective of pregnancy, the menses may become suppressed. The continuance of the menstrual discharge, when once set up, is not a necessary condition for impregnation. Dr. Murphy has reported the case of a woman who for sixteen years went on bearing children, eight in number, without having had during that period any appearance of the menses. The late Dr. Reid, who quotes this case, mentions five instances that fell within his own knowledge in which females became pregnant notwithstanding a long previous cessation of the discharge. ("Lancet," September 10, 1853, p. 236.) The absence of the menses as a consequence of pregnancy is generally indicated by the good health which a female enjoys; and although disease

may coincide with pregnancy, yet a careful practitioner will be able to estimate from the symptoms to which cause the suppression is due. On the other hand a discharge perfectly analogous to the menstrual sometimes manifests itself, not merely for several periods in a pregnant woman, but during the whole course of pregnancy. (Dr. Murphy's "Obstetric Report," 1844, p. 9; also Henke's "Zeitschrift der S. A." 1844, p. 265.) Mr. Whitehead has collected seven well-marked instances of menstruation during pregnancy. ("On Abortion," p. 218.) These facts show that we must be cautious in forming an opinion; and not assert that, because a discharge continues, pregnancy cannot possibly exist, or because there is no discharge a female must be pregnant. The retention of the menses within the uterus from any cause, may produce enlargement of the abdomen, and give rise to some of the external symptoms of pregnancy.

Feigned Menstruation.—The menses may be either suppressed or retained; but if there be any strong motive for the concealment of her condition, a woman may feign menstruation. Dr. Montgomery detected a case of this kind, by the examination of the areolæ of the breasts. The woman had stained her linen with blood in order to make it appear that the menses continued, but she subsequently admitted that this was an imposition. It has been stated that there are differences between menstrual and ordinary blood, but there are no certain chemical means of distinguishing them.

Prominence of the Abdomen.—A gradual and progressive enlargement of the abdomen is a well-marked character of pregnancy: the skin becomes stretched, and the navel almost obliterated. This enlargement in general begins to be obvious about the third month, although there are some women of peculiar structure in whom the enlargement may not become perceptible until the fifth or sixth month, or even later: still it may be detected on examination. In fact, this sign can never be absent in pregnancy, although it may not be so apparent in some females as it is in others. The objection which exists to it is, that numerous morbid causes may give rise to prominence of the abdomen. This is undoubtedly the fact, as we have occasion to witness in the various kinds of dropsy, or in suppressed and retained menses—diseases which in several instances, have been mistaken for pregnancy by eminent practitioners. On the other hand, instances are not wanting in which, owing to the persistence of menstruation and the absence of quickening, the gravid uterus has been actually tapped by mistake for an ovarian tumor: the operation being speedily followed by the birth of a full-grown child! (Whitehead "On Abortion," p. 186); but the history of a case will in general enable a practitioner to form a correct opinion.

[In the Court of Oyer and Terminer of Cumberland County, Pennsylvania, August, 1859, in the case of Commonwealth *v.* McManus, the defendant was indicted for infanticide and for concealment of the death of a bastard child. The evidence on the part of the Commonwealth was, that the prisoner had walked to the office of a physician residing some considerable distance from her residence,

and that he, after an examination, declared that she was far gone in pregnancy, so far indeed that he had distinctly felt the sutures in the head of the child! A few days afterwards another physician was called in by defendant's mother. He declared that she was with child, and would very soon be confined; whereupon the mother indignantly ordered him from the house. Subsequently, on the same day, an old woman, a neighbor, called at the request of the mother. She found the prisoner and her mother in a room together. The prisoner, who was seated on a bucket apparently undergoing the pains of labor, seemed to pull from herself something which she squeezed violently. The witness heard the falling of a body into the bucket, but saw nothing. This occurred on Friday. On the Monday following, the prisoner went in a wagon to a house some miles distant, carrying with her a covered basket. This she placed in the closet of the room where she was to sleep. While it was there, the woman who owned the house having occasion to go into the room, perceived a most disagreeable and offensive odor, which upon investigation she discovered proceeded from the prisoner's basket in the closet. In the evening the prisoner took her basket for the purpose, as she said, of going to the house of an acquaintance, who lived beyond the creek near by; when she returned the basket was empty, and the odor had disappeared. A few days after, the body of a new-born infant was found in the creek several miles below where the prisoner had crossed. This, it was alleged by the Commonwealth, was the prisoner's child, which had been strangled by her, and subsequently thrown into the water.

It was proved, however, that the prisoner never had given birth to a child, or even been pregnant. That for years she had suffered from suppression of the menses. The physician who orginally attended her proved that he had recommended her to sit over a bucket of steaming water as a means of obtaining relief. What the old woman had heard fall into the bucket was a clot of blood, loosened by the effects of hot vapor. The odor in the basket came from a bottle containing a quack lotion of herbs, with which she was in the habit of washing herself, and which had been broken when she jumped from the wagon upon reaching her destination. The defendant was acquitted.—P.]

A Change in the Breasts.—These organs in a pregnant woman are full and prominent, and the areolæ around the nipples undergo changes of color which Dr. Montgomery and others regard as highly characteristic of the pregnant state. A mere fulness or pain in the breasts, and even in some rare instances the secretion of milk, may arise from other causes than pregnancy. Severe uterine or ovarian irritation may cause the breasts to become painful and swollen. The fulness of the breasts from pregnancy is not commonly observable until about the second or third month. A more or less transparent fluid is secreted by the gland tissue of the breast, and can be expressed from the nipples. This secretion of milk may occur in a non-pregnant female as a result of uterine or ovarian disease. These cases, however, are not very common; but after a woman has once secreted

milk, the secretion is easily reproduced in the breasts by very slight causes, quite independently of pregnancy.

The *areola* is generally observed during pregnancy to become considerably darker in color and larger in diameter. The skin of which the areola is formed is soft, moist, and slightly tumid. The little glandular follicles about it are prominent, and often bedewed with a secretion; the change of *color* has been the most attended to. The areolæ are commonly well marked in from the second to the fourth month of pregnancy—the intensity of color being the last condition of the areola to appear. The prominence of the glandular follicles does not always exist in pregnancy, and the areola may become large and dark-colored from other causes: consequently these signs are only to be looked upon as corroborative. In females of dark complexion, the areolæ are naturally dark irrespective of pregnancy; and in some advanced cases these changes in the areolæ are entirely absent. ("Edin. Month. Jour." March, 1848, p. 693.) Dr. Montgomery has described as a sign of pregnancy the existence of a *brown line* extending from the pubes to the navel, especially in women of dark complexion, and a dark-colored but not raised areola of about a quarter of an inch in breadth around the navel; but this also may be produced by uterine or ovarian disease.

Quickening.—The signs above given are applicable to the early as well as to the late stages of utero-gestation; but that which we have here to consider is one which is rarely manifested until about the fourth or fifth month. Quickening is the name applied to peculiar sensations experienced by a woman about this stage of pregnancy. The symptoms are popularly ascribed to the first perception of the movements of the fœtus, which occur when the uterus begins to rise out of the pelvis; and to these movements, as well as probably to a change of position in the uterus, the sensation is perhaps really due. The movements of the fœtus are perceptible to the mother before they are made evident by an external examination. The term is derived from the old Saxon word "quick," signifying living; as, at the time when medical science was in its infancy, it was considered that the fœtus only received vitality when the mother experienced the sensation of its motion! On the occurrence of quickening there is generally a great disturbance of the system, indicated by syncope, nausea, and other distressing symptoms. After a short time the female recovers; and if sickness has hitherto attended the pregnant state, it has been frequently observed to disappear when the period of quickening has passed.

No evidence but that of the female can satisfactorily establish the fact of quickening, and this it is necessary to bear in mind; since, in some cases in which pregnancy is an object of medico-legal importance, proof of quickening may be demanded by law. Dr. Reid remarks ("Lancet," September 10, 1853, p. 237), with respect to this sign, that few women can tell the exact day on which they first feel it; and a large proportion cannot place it within a range of fourteen days, which is of little assistance in the calculation of the probable

date of delivery. Women who profess to be most exact in noting the period of quickening differ from each other as to the time. There is much self-deception as to this symptom. The discovery of the movements of a child by an examiner is really a proof that the usual period of quickening is past, but their non-discovery at the time of examination is no proof whatever that the woman has not quickened; since the movements are by no means constant, and may be accidentally suspended even at several successive examinations. Besides, cases every now and then occur in which well-formed healthy women do not experience the sensation of quickening during the whole course of pregnancy; and, what is of more importance, the movements of the child may be at no time perceptible to the examiner. The uncertainty of quickening as a sign of pregnancy is too well known to require more than adverting to. Women have been known to mistake other sensations for it, and in the end it has been proved that they were not pregnant. A woman may declare that she has felt quickening when she has not; and unless the movements of the child are perceived by the examiner at the time, how is he to confirm or disprove her statement? Quickening, then (so far as it concerns the statement of the woman), cannot be relied on as a proof of pregnancy; but if the movements of a child can be felt by the examiner through the abdomen, this is clear evidence not only of the woman being pregnant but of her having passed the period of quickening. Taking the general experience of accoucheurs, quickening happens from the tenth to the twenty-fifth week of pregnancy; but the greater number of instances occur between the *twelfth* and *sixteenth* week, or between the fourteenth and eighteenth week after the last menstruation.

From these observations, it will be seen that an examiner may sometimes detect the *movements of the child* about the third or fourth month, at others not until the fixth or sixth, and in other instances not at all throughout pregnancy. Even in those cases in which the movements of the child have indisputably existed, they are not always to be perceived; hence several examinations should be resorted to, before any opinion can be fairly expressed from their absence. The best mode of examining the abdomen for fœtal movement is to allow the hand to remain at rest on the abdomen. If the patient has quickened recently, the impulse is slight, and generally at only one spot, which, however, is seldom the same. Should she have advanced further, then the movements will be more rolling, and the parts of the child be detected at the same time. In making these examinations a diagnosis may be facilitated by previously immersing the hand in cold water and then suddenly applying it to the abdomen. When the movements of the child are distinctly perceived through the skin of the abdomen, they constitute a certain sign of pregnancy; but their non-discovery at a particular time is no proof that a female is not pregnant. The jury of matrons probably trust to this sign; hence their verdicts commonly turn out to be erroneous. There is another source of fallacy which may present itself when an artful woman is desirous of making it appear that she is pregnant—namely,

that a woman may simulate the movements of a child by a peculiar action of the abdominal muscles. Medical practitioners of repute have been deceived for a time by this artifice, but this occurred before the discovery of chloroform or the stethoscope. [For more extended remarks on the "jury of matrons," with illustrations of the entire want of reliability of their verdicts, see former edition of this work, pp. 407–411.—P.]

Sounds of the Fœtal Heart.—Another sign is that which is derived from *auscultation.* By the application of the ear or a stethoscope to the abdomen, at or about the fifth month of pregnancy (rarely earlier), the pulsations of the fœtal heart may be recognized and counted. These pulsations are not synchronous with those in the arteries of the mother; they are much more rapid, and thus it is impossible to mistake them. Their frequency, according to Dr. Hope, is in an inverse ratio to the stage of gestation, being 160 at the fifth and 120 at the ninth month. Sometimes, however, the fœtal pulse may descend to 80 or even 60 beats a minute. This sign, when present (like the fœtal movements), not only establishes the fact of pregnancy beyond all dispute, but shows that the child is living. The sound of the fœtal heart is, however, not always perceptible: when the child is dead, of course it will not be met with; but its absence is no proof of the death of the child, because the hearing of the pulsations by an examiner will depend very much upon the position of the child's body, the quantity of liquor amnii, the presence of disease, and other circumstances. Thus the sounds may be distinctly heard at one time, and not at another; they may be absent for a week or fortnight, and then will reappear; so that, although their presence affords the strongest affirmative evidence, their absence furnishes uncertain negative evidence; and several examinations should be made, in the latter case, before an opinion is formed. The earliest time at which the pulsations may be heard has been stated to be about the fourth month, but they will be best heard after the sixth month. The reason why the sounds of the fœtal heart are not always perceived, is owing not only to changes in the positions of the child, but to the vibrations having to traverse the liquor amnii and the soft layers of the skin of the abdomen. The presence of much fat in these layers intercepts them. The point where the sounds can be most readily perceived is in the centre of a line drawn from the navel to the anterior inferior spinous process of the ilium on either side—perhaps most commonly on the right. When clearly detected they furnish an unequivocal sign of the pregnant state. Besides the sounds of the fœtal heart, there are other sounds to which the name of "placental murmur," or *uterine sounds*, has been given. These are heard from an earlier date, *i. e.*, at any time after the third month. As they may occur in connection with fibroid tumors of the uterus, they do not necessarily indicate pregnancy. (See a paper on this subject by Dr. Druitt, "Med. Times and Gaz.," Jan. 21, 1860.)

In reference to these signs of the pregnant state it may be observed that if the motions of the child or sounds of the heart be perceptible,

no other evidence of pregnancy need be sought for. The mere suppression of the menses, prominence of the abdomen, and fulness of the breasts, cannot alone establish the facts; but unless the morbid causes of these abnormal states of the system be clearly and satisfactorily obvious to the examiner, it is a fair presumption from these symptoms that the woman is pregnant. In any case in which a doubt exists we should require sufficient time to form a correct opinion.

Changes in the Mouth and Neck of the Uterus.—The signs heretofore mentioned are chiefly relied on in medical practice; but it must be remembered that no case can possibly occur in civil or criminal jurisprudence in which it will not be in the power of a medical witness to make an examination of the woman. He may then form a safe judgment from the changes which take place in the neck of the uterus, and from the sensation imparted to the fingers by the presence of a rounded body (like the fœtus) floating in a liquid, when an impulse is given to the uterus from below. Up to the fifth or sixth month of pregnancy, the neck of the uterus may be commonly felt projecting into the vagina: it is of its usual length, hard and firm. After that period, the uterus rises into the pelvis, and the neck is spread out, shorter and shorter, the aperture increasing in size and becoming rounded. Towards the end of gestation, the neck of the uterus appears to be lost, becoming like a thin membrane, and sometimes no aperture can be felt.

A well-marked test of pregnancy is the motion perceptible to the finger on giving a sudden impulse to the child through the neck of the uterus. Capuron calls this the touchstone in the distinction of the pregnant state: without it he considers a medical jurist may be easily deceived. To this passive motion of a child, the name of *ballottement* is given. It cannot be easily determined before the fifth or sixth month; but after the latter period, especially as pregnancy becomes advanced, it is always available. In the French schools, the method of applying the *toucher* and *ballottement* to pregnant females is systematically taught, and by a little practice it may be easily acquired. This motion to the child can also be given through the abdomen, by external *ballottement*, in two ways: either by the patient lying on her side, the hands placed on the most depending part of the uterus, or by placing the patient on her elbows and knees; the uterus will then fall forwards, the child also will fall in contact with the front wall of the uterus, and its presence thus be made more perceptible. This latter mode is best adapted for the early stages of pregnancy.

If we find amenorrhœa or suppressed menses and a tumor distended to the size to be expected from the duration of the amenorrhœa—if the tumor be more or less central, alternately relaxing and contracting, containing an irregular-shaped body, which is freely moved within, and also self-moving, we have the clear indications of a living fœtus; and if we add to these the fœtal heart-sounds with the other minor symptoms, we have a condition which, if clearly made out, must be considered complete proof of pregnancy. Of course we may

have certainty with the fœtal heart-sounds and movements, if well-marked, and a strong suspicion from the other symptoms.

As most of these signs refer to an advanced stage, a witness may be asked what are the unequivocal indications of pregnancy *before the fifth and sixth month?* The answer to this question is of little moment to a medical jurist, since he is rarely required to give an opinion under these circumstances. In all *legal* cases, when pregnancy is alleged or suspected, it is the practice for a judge or magistrate, on a representation being made by a medical witness, to postpone the decision, one, two, or three months, according to the time required for obtaining *certain evidence.* The evidence will consist in plainly distinguishing—1. A rounded body floating freely in a tumor, which alternately relaxes and contracts. 2. The movements of a fœtus; and 3. The sounds of the fœtal heart. The most experienced men agree, that before the *sixth month* the changes in the neck and mouth of the uterus are of themselves too uncertain to enable an examiner to form a safe opinion; and, à fortiori, it is impossible to trust to external signs alone. Mr. Whitehead dissents from this view, and considers that a specular examination of the mouth of the uterus is not only more satisfactory than any other mode of exploration, but that it will enable a person to determine with certainty the existence of pregnancy during its earlier stages—from a few days after conception to the middle or end of the fourth month, when auscultation first becomes available. In the *fourth week* the lips of the mouth of the uterus at the centre of their margins are permanently separated to the extent of one or two lines; and the os tincæ (the aperture) itself, which was before a mere chink with parallel boundaries, forms an elliptical or sometimes rounded aperture, which is occupied by a deposit of transparent gelatinous mucus. At *six* or *eight* weeks, it is decidedly oval or irregularly circular, with a puckered or indented boundary having a relaxed and lobulated character. The whole circumference of the neck is enlarged, and the commissures or angles of the mouth are obliterated. The mouth continues of this irregular form throughout the whole period of gestation: but from the time of quickening to the end of the seventh month, the progressive changes are not so marked as to form a guide for determining the period of pregnancy. ("On Abortion," p. 204.) This condition of the mouth of the uterus must not be confounded with its menstrual state in the early stages, nor with a diseased state in the latter stage of gestation.

Feigned Pregnancy.—Pregnancy has been sometimes feigned or simulated for the purpose of extorting charity, of obtaining a settlement in a parish, or of compelling marriage; but it is scarcely necessary to observe that an impostor may be easily detected by a well-informed practitioner, since a woman always feigns an advanced stage of pregnancy. Although she may state that she has some of the symptoms depending upon pregnancy (and, unless she has already borne children, she will not be able to sustain a cross-examination even respecting these), yet it is not possible for her to simulate without detection a distension of the abdomen or the state of the breasts. If she submits to an examination, the imposition must be detected;

if she refuses, the inference will be that she is an impostor. Females have been known to possess the power of giving apparent prominence to the abdomen, and even of simulating the movements of a child by the aid of the abdominal muscles. By placing them under the influence of chloroform, the abdomen at once collapses, and the imposture is detected. These cases of spurious pregnancy are sometimes met with in hysteric females.

Concealed Pregnancy.—By the law of Scotland, if a woman conceals her pregnancy during the whole period thereof, and if the child of which she was pregnant be found dead, or is amissing, she is guilty of an offence, and is liable to prosecution. Evidence is sometimes given as to outward appearances indicative of pregnancy; but the main proof of a woman having been pregnant, and that which is relied on for conviction, is clear and distinct evidence of the actual delivery of a child. This is generally furnished by medical witnesses. The Scotch law, by making the concealment of pregnancy, under the circumstances above mentioned, an offence, proceeds on the principle that every pregnant female is bound to make preparations for the safe delivery of a child; and it is therefore assumed that if a child be born clandestinely, without preparation, and is found dead or is amissing, its death is owing to the want of such preparation.

Impregnation in a State of Unconsciousness.—It was formerly a question whether a woman could become *pregnant* without her knowledge. This may undoubtedly happen, when intercourse has taken place during profound sleep (lethargy), or when a woman has been thrown into this state by narcotic drugs or vapors. But it is difficult to admit that any woman should remain pregnant up to the time of her delivery, without being conscious of her condition, if the intercourse took place during the waking state. A woman endowed with odinary intellect could not avoid *suspecting* her condition after the fourth or fifth month: and this alone would be sufficient to induce her to seek advice whereby the fact would become known to her. When a woman is impregnated in a lethargic state, it is unlikely that she should go beyond the sixth month without being fully aware of her pregnancy; and if her motives were innocent, she would undoubtedly make some communication to her friends. Capuron mentions a case of this kind, in which the fact of pregnancy was first ascertained at the end of the fourth month, by the woman having complained to one of her sisters of a strange sensation which she experienced in the lower part of her abdomen. ("Méd. Lég. des Accouchemens," p. 86.) In a case related by Mr. Skey, a young woman who had had intercourse knowingly, was supposed not to have been aware of her pregnancy until the seventh month; but there is reason to believe that this woman was guilty of deception. ("Med. Gaz." vol. 39, p. 212.) There are generally, in these cases, strong motives for falsehood; hence such stories require close investigation before they are allowed to influence the opinion of a practitioner. A case occurred in September, 1857, in which a woman, æt. 22, described as modest and decorous in her behavior, then

advanced to the sixth month of pregnancy, asserted that she had not consciously had connection with any one, although she specified a date at which she remembered she had lost her consciousness—at which date intercourse might have been had! On being questioned, she denied that she had had at any time any soreness or pain in her private parts. Although there may be unconscious intercourse and pregnancy, it is not probable that in the case of a virgin there should be such intercourse without the production of pain, soreness, or laceration; and these symptoms, if not perceived at the time, should be felt subsequently and create a suspicion, if not an actual knowledge, of what had happened. This rendered the account which the woman gave wholly improbable. The fact that she was able to fix a date for her unconsciousness, with an accuracy in accordance with her condition, was also a suspicious circumstance.

Unconscious Pregnancy.—It is quite probable that women who are living in connubial intercourse may become pregnant without being conscious of it. Dr. Rüttel mentions the case of a woman, æt. 41, who had been married upwards of sixteen years, and who, while returning from a neighboring village, was suddenly delivered of her first child, when only a few days before she had been complaining that she was not likely to have any children. The child was born living and mature. (Henke, "Zeitschrift der S. A." 1844, p. 264.) Mr. Long met with a case in which a married woman, æt. 24, subject to irregular menstruation, consulted him for an attack of spasms. On his arrival, he found that she had suddenly given birth to a seven-months' child. Neither her husband nor herself had the slightest idea that she was pregnant. She had noticed that she had become somewhat stout, and that her breasts were more full than natural. She attributed her condition to improved health, and the cessation of the menstrual discharge was set down to some accidental cause. ("Med. Times and Gazette," June 13, 1857, p. 592. See also a case at full term by Dr. Tanner, "Obstet. Trans." vol. 4, p. 113.) I am indebted to a distinguished judge for the following fact in reference to unconscious pregnancy: A married lady, who had not had a child for a period of nineteen years, found herself, as she thought, getting unusually stout. She was moving about with her family to different places. At last her size alarmed her, and she thought she was suffering from dropsy; she consulted a physician, who informed her that she was in an advanced state of pregnancy. She treated this opinion with great contempt. In travelling with her daughter, they arrived at a miserable inn: on the night of their arrival, this lady was seized with the pains of labor, and was delivered of a child. She had made no preparation for the birth, and, up to the moment when she was seized with labor-pains, she had not, with all her former experience, the slightest idea that she was pregnant. (For other cases in which married women have had no consciousness of pregnancy, see "Lancet," June 16, 1860, p. 609, and June 30, 1860, p. 643.) Instances of this kind are important in reference to alleged unconscious delivery in females charged with infanticide. At the same time, all cases in which there are motives

for pleading unconscious intercourse or pregnancy require close examination; they will frequently be found to be quite unworthy of belief.

Pregnancy in the Dead.—There is no special case in law wherein the *fact of pregnancy* requires to be verified after the *death* of a woman; but an examination may be necessary in order to determine the identity of a body, or to rescue the reputation of a woman from a charge of unchastity. The discovery of an embryo or fœtus with its membranes in the uterus would of course at once solve the question, when the necessity for an examination occurred; and the practitioner will remember that, even supposing many years to have elapsed since interment, and the body to have been reduced to a skeleton, still, if the fœtus had reached the period at which ossification takes place, traces of its bones will be found amidst the bones of the woman. In examining the body of a female long after death, for the purpose of determining whether she was or was not pregnant at the time of death, it may be proper to bear in mind that the unimpregnated uterus undergoes decomposition much more slowly than other soft organs. In the case of a female who had been missing for a period of nine months—whose body was found in the soil of a privy, so decomposed that the bones separated from the soft parts—the uterus was of a reddish color, hard when felt, and its substance was firm when cut. The fact was of importance. It was alleged that the deceased was pregnant by a young man, and that in order to conceal her condition he had murdered her. From the state of the uterus, Casper was able to affirm that this organ was in its virgin condition, and that the deceased was not pregnant at the time of her death. On this representation the accused was liberated. ("Ger. Leich. Oeffn." vol. 1, p. 93.) In examining bodies many months after interment, and in one case upwards of a year, I have been surprised to find, that while other soft organs were decomposed, the uterus had scarcely undergone any change: its substance was still firm and hard.

It may happen that the appearances in the uterus are sufficient to create a strong suspicion that a woman has been pregnant, but the ovum, embryo, or fœtus may have been expelled; in this case several medico-legal questions will arise in reference to delivery.

Legal Relations.—There are two cases in English jurisprudence in which proof of the pregnancy of a woman may be required. One of them relates to the civil, and the other to the criminal law. 1. Under a writ *de ventre inspiciendo*. When a woman asserts that she is pregnant, and is likely to give birth to a posthumous child, the heir-at-law to the estate may claim a right to have her statement verified and proof given that she is really pregnant. The object of this proceeding is to prevent the possibility of the heir being defeated of his rights, by the fraudulent substitution of the child of another person. Formerly, the proof of pregnancy in such cases was intrusted to matrons nominated by the sheriff, but now the matter is more considerately left to skilled medical practitioners. There will be no difficulty in such a case, provided the pregnancy

is at all advanced. Examinations may be made at intervals, until the motions of a fœtus are clearly perceived, with the other concomitant signs above described. An examination of this kind should be made completely. No woman should be able so to feign pregnancy as to deceive a skilled medical man. 2. The other case, referring to criminal law, is where a woman, after a capital conviction, pleads her pregnancy in bar of execution. If she is pregnant, the execution of the sentence is postponed until after her delivery. The strict letter of the law requires that married women taken from any who may be in court, should be impanelled to examine the convict and report on her condition. They are required to decide whether she has or has not passed the stage of quickening. It is however the practice with some learned judges to direct the examination to be made by medical men, for the purpose of avoiding those mistakes into which an ignorant jury of matrons has frequently fallen.

These are, I believe, the only cases in which pregnancy has any direct relation to medical jurisprudence; and it is remarkable that, with respect to them, the law of England has expressly provided that they should be left to the decision of non-medical persons! The following conclusions may therefore be drawn: 1. That the cases in which the signs of pregnancy become a subject of *legal* inquiry in England are rare. 2. That there is no case, in English law, in which a medical man will not have an opportunity of performing an examination *per vaginam*. 3. That a medical opinion is never required by English law authorities, until the pregnancy is so far advanced as to render its detection *certain*. Hence discussions concerning areolæ, the condition of the breasts, the presence of kiestein in the urine, &c., are, in a practical point of view, unnecessary to a medical jurist. By these remarks I do not intend to undervalue the importance of an accurate knowledge of the signs of pregnancy to a medical practitioner. Cases which may never come before a court of law will be referred to him, and the serious moral injury which he may inflict on an innocent woman by inaccuracy, should make him cautious in conducting an examination and in expressing his opinion.

DELIVERY.

CHAPTER XLII.

DELIVERY IN THE LIVING.—CONCEALED DELIVERY.—SIGNS OF ABORTION IN THE EARLY STAGES OF PREGNANCY.—SIGNS OF RECENT AND REMOTE DELIVERY.—FEIGNED DELIVERY.—DELIVERY IN A STATE OF UNCONSCIOUSNESS.—SIGNS OF DELIVERY IN THE DEAD.—TRUE AND FALSE CORPORA LUTEA.—CHARACTERS OF THE OVUM OR EMBRYO.—MOLES.—CONCEALMENT OF BIRTH.

DELIVERY is a subject which much more frequently requires medico-legal intervention than pregnancy. It will be sufficient to state that the concealment of birth, the crimes of abortion and infanticide, with questions relative to suppositious children, are closely dependent on the proof of parturition. This subject will admit of being considered under two heads: 1. As it relates to delivery in the *living*. 2. As it relates to delivery in the *dead*. In undertaking the investigation, we ought, if possible, to ascertain, either from the female herself or from those around her, whether there was reason to suspect that she had been pregnant. If we can acquire any knowledge on this point it will materially facilitate our inquiry: but this is not always possible. It has generally happened, that previous pregnancy has been so concealed that few who saw the woman suspected her condition; then again, as the admission of her delivery may be the strongest proof of her criminality, she will perhaps resolutely deny it; and a medical practitioner has no right to extort this admission from her. From this it will be seen that a medical witness must often be prepared to prove the fact of delivery, against the woman who is criminally charged.

Delivery in the Living. Concealed Delivery.—The signs of delivery in a *living* woman vary materially, according to the time at which this event has taken place. In common language, if the contents of the uterus are expelled before the sixth month, the woman is said to miscarry, or to have an abortion: if after the sixth month, she is said to have a premature labor. The law does not admit any such distinction: the expulsion of the ovum, fœtus, or child by criminal violence, at any period of utero-gestation, is regarded as a miscarriage or abortion. It has been well observed that the signs of delivery are indistinct in proportion to the immaturity of the ovum. Thus, when it takes place at the second or third month, there are scarcely any proofs which can be derived from an examination of the woman.

All the ordinary signs of delivery at the full period will be absent—the development of the embryo not having been sufficient to cause any prominence in the abdomen, or to give rise to those changes in the system which take place previously to the birth of a mature child: *e. g.* enlargement of the breasts and dilatation of the mouth of the uterus. Abortion at this period (the second or third month) is generally accompanied by loss of blood, which may manifest itself by its effects on the body. This, however, can only give rise to a suspicion. At a later period of gestation there may be a discharge resembling the lochia, and the mouth of the uterus may be found enlarged and soft; but from the small size of the fœtus the outlet will present no positive evidence of delivery. The quantity of blood lost may be greater, and may have a more decided effect on the system. Of course, if the ovum, fœtus, or any of its membranes be found, then the presumption of abortion will be strongly supported: but women who designedly conceal their condition, will commonly take effectual means to prevent the examiner from obtaining evidence of this kind.

Signs of Recent Delivery in the Living.—The female is weak, the countenance pale, the eyes are surrounded by livid areolæ, and there is an appearance of general indisposition. Any severe illness may, however, give rise to similar symptoms. Their sudden occurrence, from a state of previous good health, especially when pregnancy is known or suspected, will create a strong suspicion. The *breasts* are large and full, especially about the third or fourth day after delivery; the nipples are enlarged, and the areolæ around them present all the characters of advanced pregnancy.

1. The *skin* of the abdomen is relaxed, sometimes thrown into folds: the cuticle interrupted by light-colored broken streaks, passing especially from the groins and pubes towards the navel, which is more or less stretched and altered in appearance. Any disease which has caused enlargement of the abdomen may give rise to a similar appearance in the skin, so that when taken alone much confidence cannot be placed in these lines or streaks as proofs of delivery. The round form of the enlarged and semi contracted uterus may be felt at the lower part of the abdomen, generally lying towards one or the other side. The apparent size of this organ will depend upon the degree to which it has contracted, and therefore greatly upon the time at which an examination is made. Dr. Montgomery has pointed out the existence of a dark line extending from the pubes to the navel, with a dark areola around the latter, in cases of recent delivery; but he has found this line to exist independently of pregnancy and delivery—in one case in a girl aged 10, and in another instance in a lady laboring under an ovarian tumor.

2. The *organs of generation* will be found externally swollen, contused, or even lacerated, with clots of blood about them. The outlet is much dilated, the vagina relaxed, the mouth of the uterus considerably open, and its margin completely relaxed. The neck of the uterus is shortened, and scarcely perceptible; and the body of this organ is from two to four times the size which it has in the unim-

pregnated state. It occasionally happens that the neck of the uterus is lacerated on one side during the passage of the head in primiparæ; should this be found, or a cicatrix, it will much assist in proving delivery.

3. *The Presence of the Lochia.*—This is a discharge, at first of a sero-sanguineous liquid, but which afterwards appears as a brown or green-colored serum. It commences soon after delivery, and continues from a week to a fortnight, or even longer; it may be absent after the third day. The discharge has so peculiar an *odor* that some have regarded this alone as furnishing strong evidence of recent delivery.

The signs which have been here enumerated are found only when no delay has taken place in making the examination, and the woman has been *recently* delivered. In some strong and vigorous females the body resumes its natural state within a few days, and the traces of parturition may have wholly disappeared or have become so ambiguous as to furnish no satisfactory evidence. In others, again, proofs of delivery will be obtainable for a fortnight or three weeks afterwards. In most cases, however, it is difficult, if not impossible, to say, after the lapse of *eight or ten days*, that delivery has certainly taken place, the signs having commonly by that time disappeared. In all cases the earlier the period at which an examination is made the more satisfactory will be the evidence obtained. Dr. Montgomery once examined a female *five days* after delivery at the full time, and he was particularly struck with the degree to which the parts had become restored to their ordinary condition, especially the mouth and neck of the uterus, which hardly differed from their natural and unimpregnated form. ("Cyc. Pr. Med." loc. cit.) This inquiry becomes of considerable importance in a case of alleged child-murder. When the body of a child is not found until after two or three weeks from the time of its birth, and the suspected woman denies that she has been delivered of a child, she will probably not deny her pregnancy, but may assert that she has had an abortion at an early period. (See a case by Dr. Walther, of Labiau, in Casper's "Vierteljahrschrift," Oct. 1863, p. 275.) In cases of abortion at an early period the placenta is not always discharged at the time. ("Med. Times and Gaz.," March 12, 1859.) A microscopical examination of the discharges might reveal placental or chorionic structures. In a case which occurred to Dr. Paxton, of Kilmarnock, all the usual signs of delivery were present in a woman æt. 20: she had evidently lost much blood, and was much reduced. From the state of the organs, Dr. Paxton considered that she had been delivered of a child within three days. There was no lochial discharge at the date of examination. The woman had previously denied her pregnancy when charged with concealment of it, but after the medical examination she altered her statement, and said that she had not only been pregnant, but was so at that time. On a further examination, the uterus was found to contain a fœtus advanced to about the sixth month, and in three months more she was delivered of a child. What caused the appearances of delivery, the condition of the breasts, &c.? Either she

had shortly before been delivered of a child, or of a blighted ovum or fœtus. Neither fœtus nor placenta was ever seen or could be found, but the woman had had ample opportunity to dispose of them. This may have been a case of twin conception or of superfœtation. It shows that in charges of concealment of pregnancy or delivery, it must not be inferred when the appearances of delivery clearly exist, that the uterus is empty. The organs should always be examined in order to determine whether it does not contain another fœtus.

Signs of Delivery at a Remote Period.—A question may arise whether it is in the power of a medical practitioner to determine the period at which delivery took place, *i. e.*, how long a time has elapsed. This becomes necessary when, in cases of concealed birth, abortion, or infanticide (some time after suspected parturition), a child is found, and it is required to determine whether the time which has elapsed since the birth of the child, either dead or living, corresponds with the supposed delivery of a suspected woman. An opinion may be given within eight or ten days after delivery, from the state of the breasts; of the discharges (lochia), and of the mouth of the uterus; but it becomes difficult after the sixth day; and when the tenth or twelfth day has passed it is still more difficult. After two or three months it may be regarded as impossible to assign the period of delivery with any degree of precision. (See Devergie, "Méd. Lég." vol. 1, p. 446.)

In a case of pretended delivery, contested legitimacy, or disputed chastity, a medical jurist may be required to say whether a woman has, at any antecedent period of her life, been delivered of a child. This question, it must be remarked, can be raised only in respect to delivery at the full period, since there is no doubt that abortion in the early stages of pregnancy may take place, and leave no traces of such an event discoverable in after-life. Indeed, a few days or weeks are sometimes sufficient to obliterate all evidence of the fact. With respect to delivery at the full term, certain signs have been mentioned, which by some are considered indelible. These are: shining streaks on the skin of the abdomen, a brown mark reaching from the navel to the pubes, and the state of the mouth of the uterus, which is said never to close so effectually as in the virgin. In regard to the appearance of the skin of the abdomen, it may be remarked, that any morbid causes giving rise to a distension of the cavity—as ovarian enlargement or dropsy—will produce the same effect; so, also, to a certain extent, extreme emaciation from a state of obesity. (See "Med. Times and Gaz." April 17, 1861, p. 450, on False Cicatrices.) Then, again, these marks on the skin are not always persistent throughout life. Besides, a woman, according to the statements of good observers, may be not only once but repeatedly delivered, without having these marks produced. ("Med. Times and Gaz." June 9, 1860, p. 583.)

With regard to the state of the mouth of the uterus, it is liable to vary in different women, and to be affected by disease, so that a certain judgment cannot always be formed from its condition. In a

woman who has not borne children the mouth of the uterus is in the form of a slit, the angles being bent down, and giving to it the appearance of the os tincæ (tench's mouth.) Mr. Whitehead has observed that, in a woman who has borne children, the mouth becomes elongated, and loses the slight bend at each of its extremities; the labia are thickened, and more nearly of equal size; the commissures are less clearly defined, and the whole of the neck is enlarged, and not so compact in texture. ("On Abortion," p. 195.) It must be remembered, however, that the condition of the mouth of the uterus, even in the virgin, varies at each menstrual period. Should there be congenital occlusion of the vagina, or the hymen be found imperforate, this will at once negative a previous delivery; but the latter condition will not negative a previous pregnancy, since a woman may have been impregnated, and have had an abortion in an early stage of pregnancy, without a necessary destruction of the hymen. This sort of negative evidence may however be sometimes of great value. There is a total want of good affirmative evidence of delivery at a remote period in the living, if we except that which is furnished by the presence of cicatrices in the vagina or of a cicatrix as a result of lacerated perineum. It is rare, however, that any decision on this subject is required in medical jurisprudence. It might be demanded, either in a case of infanticide, when a woman was accused of having destroyed her alleged offspring some months or years before; or in a case of contested legitimacy, when a female is accused of having substituted a child of which she pretends she has been delivered at some remote period of time.

Feigned Delivery.—Delivery has often been feigned by women for the purpose of extorting charity, compelling marriage, or disinheriting parties who have claims to an estate, and in other cases without any assignable motive. Of course, an imposition of this kind could not be sustained before a medical practitioner; and detection is rendered easy, because it is *recent* and not *remote* delivery which is assumed. The latter would, if pretended, be generally cleared up by an examination, as well as by circumstantial evidence. (See case, "Med. Gaz." vol. 19, p. 231; also another by Capuron, "Méd. Lég. des Accouchemens," p. 110.) [The case of Mrs. Cunningham, in New York, will suggest itself to the mind of the American reader. —P.]

Can a Female be Delivered Unconsciously?—Another important question relative to delivery in the living, is whether a woman can be delivered without being *conscious* of it. The signs of delivery may be discovered by a practitioner: the offspring may also be found. The woman may admit the fact of her delivery, but allege that she was totally unconscious of it. The only medico-legal case in which this plea is occasionally raised is in infanticide; and as the possibility of the occurrence may be questioned, the practitioner must be provided with a knowledge of those facts which medico-legal writers have accumulated respecting it. There is no doubt that a woman may be delivered unconsciously during profound sleep, while

laboring under coma, apoplexy, asphyxia, or syncope; or when suffering from the effects of narcotic poisons—*e. g.* the vapors of chloroform and ether, or intoxicating liquors. It is said, also, that delivery has taken place spontaneously while a female was in the act of dying. This, however, has no bearing on the present question. It is in those cases where a female, after her recovery, pleads unconsciousness of delivery that medical practitioners are chiefly consulted. Besides the cases enumerated, hysteria, when accompanied by loss of sense and motion, has been mentioned as a state in which parturition is liable to occur unconsciously. We need not be surprised at delivery taking place under these circumstances, when we consider that the contractile power of the uterus is altogether independent of volition: but, unless the morbid states already mentioned are accompanied by the most profound lethargy and entire loss of sensation, it can rarely happen that the contractions of this organ in its efforts to expel the child, should not at once rouse a woman into consciousness. We ought particularly to expect this in primiparæ, *i. e.* in those who have never borne children. At the same time it must be remembered that parturition in some women, especially when the pelvis is wide and the child small, may take place with such rapidity and ease as scarcely to be accompanied by pain.

It has been observed that, when a woman has frequently borne children, delivery sometimes takes place without effort, and without any consciousness on her part. On other occasions a woman may lie in a kind of torpor or stupor, or suffer from eclampsia (puerperal convulsions), and have no recollection of her delivery. The following case is possible: A woman may be delivered while under the influence of eclampsia, which might have attacked her before labor set in; and after delivery, but before complete recovery, she might become maniacal—a not unfrequent condition—during which interval she may have killed or injured her child: or the child may have been born dead, or suffering from some accidental injury. She would with truth assert her entire ignorance of it. Her statement would be verified by a bitten tongue, a congested conjunctiva or face. Should albumen be found in the urine this fact would be still more confirmative. Of course eclampsia might occur without these results. The statement might be disproved by finding her actions had shown care and design in other circumstances at the time she said she was unconscious. Mr. King has described the case of a woman, aged 36, the mother of nine children. She received his assistance in her tenth labor: when summoned she was lying calmly and placidly in bed, and was perfectly insensible. He found that the child had been expelled with the placenta. The woman did not recover her sensibility for ten or twelve hours, and then stated that she had no recollection of the birth of the child, or of any circumstances connected with that event: she suffered no pain or uneasiness. Another case is mentioned by this gentleman, in which sensation appeared to be entirely paralyzed during labor. ("Med. Times," May 15, 1847, p. 234.) It is beyond doubt that profound lethargy occasionally makes its appearance about the time of delivery. Dr. Schulze met

with a case in which a woman remained in a state of sleep for three days, and was delivered while in this unconscious condition: on awaking, she had no recollection of having suffered any pain during delivery. ("Ann. d'Hyg.," 1845, vol. 1, p. 216; "Med. Gaz.," vol. 36, p. 40.) Dr. Montgomery relates the case of a lady, the mother of several children, who, on one occasion, was unconsciously delivered during sleep. ("Cyc. Pr. Med."; see also case in "Brit. and For. Med. Rev.," No. 9, p. 256.) Dr. Palfrey describes a case in which labor commenced and progressed in a woman to the second stage during sleep. ("Lancet," 1854, vol. 1, p. 36.)

The results obtained by the use of the vapors of chloroform and ether show that the expulsive efforts of the uterus are often as energetic in the unconscious as in the conscious state. It may appear extraordinary, however, that a primiparous woman, unless rendered unconscious by narcotic substances, should be delivered without suffering pain: nevertheless, a case of this kind is recorded by Dr. Wharrie. The woman's age was 21; she had been in labor about six hours; she complained of no pain, and the child was born without effort or consciousness. The child was healthy but small, weighing rather more than four pounds. ("Cormack's Journal," January, 1846, p. 12.) Notwithstanding this case, it is in the highest degree improbable that any primiparous female should be delivered during *ordinary sleep* without being roused and brought to a sense of her condition.

There is another condition in which a woman may state that her delivery took place unconsciously; and this, from its being one of the most common species of defence set up by a female charged with child-murder, must here claim our attention. Thus she will allege that, while suffering from pain, she felt a strong desire to relieve her bowels: that she went to the water-closet for that purpose, and was there delivered without knowing anything of the occurrence until it was too late to save the child. This kind of desire is a very common symptom of the parturient state; and in private practice it is often difficult to restrain a woman from yielding to the feeling, when it certainly would be attended with hazard to the child. ("Med. Times and Gaz.," April 4, 1857, p. 347.) We must therefore admit that an accident of this kind can occur; although here, as in every other instance in which unconscious delivery is pleaded, a medical witness ought to inform himself, or be informed, of all the particulars which are stated to have attended delivery, before he gives an answer applicable to the case. As a general rule, it cannot be denied that delivery may take place under these circumstances, and a woman not be conscious of it; but before we make this admission in regard to any particular instance, we ought to have a statement of all the facts from the female herself. It is thus that we shall avoid the risk of seeing a premature medical opinion set aside by the subsequent production of circumstantial evidence. Besides, it has been properly observed that, *after* an accident of this kind, a woman cannot be ignorant of her having been delivered. Women who have raised this plea in cases of child-murder have often been known to maintain

that they were unconscious of their pregnancy, and thus have attempted to excuse themselves for not having prepared the articles necessary for childbirth. It is possible that a woman, especially one who is pregnant for the first time, may not be aware of her pregnancy in the earlier stage; but it is rare for one to advance to the full term without being conscious of it. Women who have borne children have not unfrequently consulted medical men; and although nearly at full term they have been unconscious of their state. In the majority of instances, it may be presumed that a woman thus situated must have had some reason to *suspect* her condition; and if only a suspicion existed in the mind of one who did not contemplate the destruction of her offspring, there would assuredly be many circumstances forthcoming which would at once establish her innocence. If this remark applies to married women, it applies with still greater force to those who are unmarried, since the fact of illicit connection, and the fear of its consequences, must render them peculiarly alive to all those changes which, by common repute, take place in the female system during pregnancy.

Signs of Delivery in the Dead.—It will now be proper to examine the signs of delivery which are derivable from an examination of the body of a woman after death. Occasionally we may obtain some history of the case during life, by which our labor will be much facilitated; but, on the other hand, every fact may be studiously concealed from us, and then we may be required to prove not only the delivery but the previous pregnancy. These investigations relative to pregnancy and delivery in the dead body are almost exclusively confined to cases of criminal abortion, where the contents of the uterus have been expelled at the sacrifice of the life of the woman. Death commonly ensues in these cases within two or three days after delivery, and then satisfactory proofs are obtainable by a post-mortem examination; but if the woman has survived three or four weeks, it will be as difficult to determine delivery in the dead as in the living subject. This remark applies to delivery at the full period; for if the uterus have expelled its contents in the first months of pregnancy, the traces of this expulsion will have generally disappeared in the course of a few days.

The following may be taken as the chief appearances when the body of a woman is examined soon after delivery at the *full* period. The uterus is like a large flattened pouch from nine to twelve inches long, its mouth being wide open. The cavity contains coagula of blood or a sanguineous fluid: and its surface is covered with the remains of a decidua—the outermost membrane of the embryo or fœtus. In the part to which the placenta has been attached, the substance of the organ appears exposed, presenting several large semilunar or valvular openings. This portion of the uterus has been found of a very dark color, which has given rise to a suspicion that the organ was gangrenous. The vessels are extremely large and numerous. The Fallopian tubes, round ligaments, and ovaria are so vascular (full of blood) that they have a purple color. The

spot whence the ovum has escaped is more congested than the rest of the ovarian surface. Obstetric writers differ greatly in their statements respecting the size of the uterus at different periods after parturition; and these differences may be explained, partly by the fact that the uterus contracts more rapidly in some women than in others, and partly, perhaps, by the circumstance of the birth having been, in some instances, premature. Dr. Montgomery states that, after delivery at the full period, and under perfect contraction of the uterus, if the body be examined within a day or two, the uterus will be found seven inches long and four broad. Its substance, on making a section, will be from an inch to an inch and a half in thickness, and will present the orifices of a great number of large vessels. At the end of a week the uterus is between five and six inches, and at the end of a fortnight about five inches in length; the density of its structure has during this period increased, and its substance has considerably diminished. The inner surface is still bloody, and covered partially with a pulpy membrane resembling the decidua. The orbicular direction of the fibres around the internal orifices of the Fallopian tubes is at this time very distinct. In about a month the uterus will have become fully contracted; but the mouth rarely, if ever, closes so completely as in the virgin state. In a case examined by Dr. Barnes, in which a primiparous woman, aged 26, died from puerperal fever on the *sixth day* after delivery, the following appearances were met with in the uterus. The internal surface was blackened and congested, especially in those parts to which the placenta had been attached. There was the appearance of suppurative action in this part. The substance of the uterus was healthy; there was no pus in the sinuses. The os uteri showed considerable ecchymosis. The vagina was healthy: the iliac veins contained nothing but loosely coagulated blood. There was in the left ovary a small well-marked corpus luteum, having a central cavity. ("Med. Gaz.," vol. 41, p. 294.) This condition of the uterus must not be confounded with the appearances which are observed when death takes place during *menstruation*. Dr. Judee found in the bodies of three women who died during menstruation that the uterus was somewhat enlarged—its walls being thickened and its interior lined by a reddish gelatinous layer about 1-12th of an inch thick consisting of a capillary network of vessels, inclosed in a mucous-like membrane. When this was removed the uterus below was found to be white and firm. The interior of the neck was of a grayish color: the lips were swollen, of a dull-red, bluish, or even black color. On compressing this part small drops of blood issued. This was not observed either in the neck or body of the vagina. A section of the uterus presented only the normal fibrous tissue: but at the level of the mouth (os uteri) there was a mass of tissue resembling a portion of apoplectic lung. The blood during menstruation, according to this gentleman, issues entirely from the highly congested mouth of the uterus. ("Gaz. des Hôpitaux," No. 39, and "Med. Times and Gaz.," June 23, 1855.) An ecchymosed condition of the neck of the uterus is very commonly found as the result of an easy labor, and therefore forms a

good guide where present. This point must be borne in mind in reference to criminal abortion, inasmuch as the neck has the appearance as if violence had been employed.

From the statement of appearances given above, it will be seen that there must be considerable difficulty in determining the period prior to death at which delivery took place. The difficulty is increased when a woman has been prematurely delivered, or when death has not taken place until some time after delivery. A medical opinion may be then in some degree strengthened by searching for those signs which have been described as characteristic of delivery in the living. These, if present, will always furnish strong corroborative evidence, not only of the fact of delivery, but of the period at which it had probably occurred.

Corpora Lutea.—The condition of the *ovaries* has been considered to furnish strong evidence, not so much of delivery as of previous pregnancy. These organs, as it has been already stated, when examined soon after delivery, are found of a deep purple color owing to their extreme vascularity. If the woman has really been pregnant, we may expect to find, on one of the ovaries, the appearance which is denominated a *corpus luteum*. The accounts given by obstetric writers of the characters of corpora lutea, and the evidence which they are capable of furnishing in legal medicine, are very conflicting. According to Dr. Montgomery, in a *true* corpus luteum (*i. e.*, of pregnancy) the ovary presents a protuberance with a distinct cicatrix on the part whence the ovum has escaped. The protuberant portion will be found on section to have an oval form and to be of a dull yellow color—hence the name *corpus luteum*. It is full of blood, and in texture resembles the section of a kidney. It is of its greatest size in the early stage of pregnancy, and gradually diminishes as gestation advances. In the centre of this section there may be either a *cavity* or a radiated white *cicatrix* (scar), according to the period at which the examination is made. The cavity remains for about three or four months after conception, and is surrounded by a strong white cyst: as gestation advances the opposite sides approximate, and a radiated white cicatrix results. The size and vascularity of the corpus luteum are considerably diminished by the time gestation is completed, and in about five or six months afterwards—*i. e.*, fourteen months after its first formation—it disappears altogether from the ovary; so that the corpus luteum of one conception is not found with that of another, unless a premature expulsion of the contents of the uterus has taken place. ("Cyc. Pr. Med. Pregnancy," p. 496; see also "Edinburgh Monthly Journal," Jan. 1845, p. 58.) The presence of a corpus luteum, as it is here described, does not prove that a woman has borne a child. In the opinion of some obstetric authorities, it establishes that conception has taken place; but the embryo may have been converted into a mole or a blighted fœtus, and expelled at an early period.

The late Drs. Baly and Kirkes, who investigated the subject of true and false corpora lutea, concluded from their researches, that cases seldom occur in which the mere presence of a corpus luteum

can be taken as a proof of previous impregnation; and they consider the following rules to be deducible from the facts which they have collected: 1. A corpus luteum in its early stage (that is, a large vesicle filled with coagulated blood, having a ruptured orifice, and a thin layer of yellow matter within its walls) affords no proof of impregnation having taken place. 2. From the presence of a corpus luteum, the opening of which is closed, and the cavity reduced or obliterated (only a stellate cicatrix remaining), no conclusion as to pregnancy having existed can be drawn, if the *corpus luteum be of small size*, and does not contain so much yellow substance as would form a mass the size of a small pea. 3. A similar corpus luteum of larger size than a common pea, would furnish strong *presumptive* evidence, not only of impregnation, having taken place, but of pregnancy having existed during several weeks at least; and the evidence would approximate more and more to complete proof, in proportion as the size of the corpus luteum was greater. (Op. cit. p. 57.)

From these considerations, therefore, it appears to me that the only conclusion to which we can come is, that medical evidence respecting the nature of a corpus luteum, in an unknown case, if received by a court of law at all, should be received with the greatest caution, and only from a witness of great experience. The old doctrine on this subject, that the presence of such a body on the ovary affords *certain* and undeniable evidence of impregnation, may be regarded as completely subverted.

Characters of the Ovum or Embryo to the Sixth Month.—Hitherto the examination has been confined to the woman, but it is now necessary to describe the characters of the ovum or embryo and its enveloping membranes at the early stages of pregnancy, since, when this can be procured, it may furnish good medical evidence. The "ovum" signifies the embryo and its membranous coverings; the "embryo" is the body which is afterwards converted into the fœtus; the term "fœtus" is applied to the embryo after the third or fourth month of gestation. If the ovum be expelled within a *month* after conception, it is scarcely possible to detect it, owing to its small size, and its being enveloped in coagula of blood. Burns examined three uteri within the first month, where no expulsion had taken place, but even under these favorable circumstances he failed in discovering the ovum. At first the ovum contains no visible embryo, but it appears to consist merely of vesicular membranous coverings. According to this authority, when first distinctly seen through its membranes, it is of an oblong form, and about a line (the twelfth of an inch) in length. At the *sixth week* it is slightly curved, resembling, as it floats, a split pea. In the *seventh week* it is equal in size to a small bee; and by the end of the *second month* it is bent, and as long as a kidney bean. After the second month, development goes on rapidly; the features are in part well marked, and the limbs are gradually well formed. At the *third month*, the fœtus weighs from one to two ounces; when stretched out, it measures about three inches, and the genital organs, although the sex is not then distin-

guishable, are large in proportion to the rest of the body. The membranes are larger than a goose's egg. At the *fourth month* the fœtus is from five to six inches long, and weighs from two to three ounces; at the *fifth month* it measures from six to seven inches, and weighs from five to seven ounces; and at the *sixth month* its length is from eight to ten inches, and its weight about a pound. (For the characters of the child beyond this period see "INFANTICIDE.") The great difficulty will consist in determining the nature of the supposed ovum or embryo between the second and third month. In making the examination, it should be placed in water, and all coagula gently washed away from the membranous coverings or removed by some blunt instrument. Alcohol may be used as a substitute for water, after the blood has been removed. If the embryo cannot be found, the decidua and chorion, or portions of them, may be recognized; the former by its forming the outer investment with its smooth internal and rough external or uterine surface; the latter by the villous or shaggy appearance of that portion of it which should have become the placenta. Between the third and fourth month the fœtus may be commonly identified without much difficulty. The ovum in many instances escapes first, leaving the decidua behind. This comes away after a time, but it is important to remember that in some states of the virgin, decidua-like structures are thrown off from the uterine mucous membrane, which, when examined by the microscope, resembles the true decidua. Both are constituted of the innermost portion of the uterine mucous membrane, and contain all its elements. Dr. Keiller ("Ed. Med. Jour.," July, 1865, p. 82) and Dr. C. Bell in the same journal (Aug. 1865, p. 120) have called attention to the fact that an erroneous medical opinion on the date of pregnancy may be formed by trusting too much to the appearance of the ovular membranes. The ovum or fœtus may die and the membranes afterwards continue to grow, thus giving the appearance of a longer date to pregnancy. The embryo alone can give any satisfactory result on this point. The membranes may be also enlarged as the result of dropsical accumulation, and this may be set down to pregnancy of some duration when it may not have extended beyond the second or third month.

A *mole* is the result of conception, the fœtus of which has died in consequence of the effusion of blood into the decidua and the various membranes; and, should a placenta exist, into its structure. The symptoms accompanying a mole resemble those of pregnancy; and the appearances produced by its expulsion are not to be distinguished from those attending the abortion of a fœtus at an early period of gestation. The only means of distinction would be derived from an examination of the expelled matters. The local injury produced by the expulsion of these bodies on the organs of generation is by no means so great as that caused by delivery at the full period.

When from some accident the fœtus dies at any time before the complete formation of the placenta, the villi of the chorion, instead of completely dying, retain a certain amount of vital force; the

consequence of which is that in some parts growth goes on imperfectly, serous fluid is effused within, and the part is distended into a globular form. This is called a *vesicular mole*. In the early state of pregnancy a decidual covering will always be found more or less complete around this mole, but if the size of the mass be great, then, although present, it will be less observable, being spread over a large surface. A *corpus luteum* will also be found, but not so perfectly formed as in normal pregnancy. The ordinary symptoms of pregnancy accompany this state, although in all forms of mole-pregnancy it is imperfectly marked, or only proceeds to a certain point. (See case, "Obstetric Record," vol. i. p. 21.) It is also to be remembered that the effects produced by the expulsion of a mole are very similar to those of abortion. These facts may have an important bearing on medico-legal practice.

Concealment of Birth.—[For the law in England previous to the statute of Victoria, see the last American edition of this work, p. 427, &c. For the Pennsylvania law upon the subject of concealment in such cases, see Revised Criminal Code, March 31, 1860, § 89. Concealment of *birth* of child is not punishable under the Pennsylvania Revised Code.—P.] Medical evidence respecting delivery is required in two cases: 1st, when the birth of a child is wilfully concealed; and 2dly, when the contents of the uterus have been prematurely expelled by criminal means. The concealment of pregnancy is no offence in the English law; but the concealment of *delivery* or of *the birth* of a child is a misdemeanor by the 24 & 25 Vic. c. 100, sec. 60, the words of which are to the following effect: "If any woman shall be delivered of a child, *every person* who shall by *any secret disposition* of the dead body of the said child, whether such child died before, at, or after its birth, endeavor to conceal the birth thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for any term not exceeding two years, with or without hard labor." A proviso is added to the effect that any person tried for the murder of any child, and acquitted thereof, may be found guilty of concealment of birth, if it shall appear in evidence that the child had recently been born, and that such person did by some secret disposition of the dead body endeavor to conceal the birth. Various interpretations have been put upon the terms "concealment" or "secret disposition" of the body. This part of the evidence does not affect a medical witness, unless he himself has found the dead body or was present when it was found. It will rest with the judge to determine whether the body has been so disposed of as to constitute legally a misdemeanor. (*Reg.* v. *Clarke*, Chelmsford Summer Assizes, 1864.)

This is an offence of which women charged with child-murder are commonly convicted in England: while the Scotch law punishes women for the concealment of pregnancy if the child be dead or missing. (Alison's "Criminal Law," p. 153.) The medical evidence on trials for this misdemeanor is exclusively derived from an examination of the mother; and thus, much will depend upon the time at

which this is made. With respect to the child, its body need not even be produced, provided there be satisfactory evidence of its death: the body may have been secretly buried or burnt, and in the latter case it may be necessary to examine the bones or ashes.

According to the statute, the child must be *dead*—the concealment of the birth of a living child not being any offence, unless it should happen to die before its birth was made known. In the case of the *Queen* v. *Woodman* (Kingston Lent Ass. 1844), the woman was acquitted because the child was living when concealed. Mr. Chitty says, that in order to constitute the offence, the child must have advanced to the end of the seventh month ("Med. Jur.," p. 412); but it is to be presumed that the concealment of the birth of a dead child at the sixth or under the seventh month, would be as much an infringement of the statute as if it were more advanced. The concealment of the aborted but undeveloped ovum or embryo—of a monster, *i. e.* a child without human shape, a mole or other morbid growth—would not probably be considered a contravention of the statute. From some observations made by the Recorder of London at the Central Criminal Court, October, 1865, there appears to be great uncertainty on this point. It is difficult to suggest a proper legal definition of a "child." In reference to the case of *Reg.* v. *Knight*, a woman charged with concealment of birth, the prisoner admitted to a policeman that she had been delivered of a "something" (not forthcoming). "Now, was she delivered of a child, and had she disposed of the body in such a way as to conceal the fact of her having been so delivered? Then, what was 'a child?' for those were the words used in the Act of Parliament. He felt himself a little debarred from expressing his own opinion in reply to this question, because two of the learned judges had given decisions directly contrary the one to the other upon this subject. One of them said it was not a child unless it had attained that state in which it could live, supposing it had been born alive. If it had attained that state, then he was of opinion that it was a child. The other judge said that this was not his idea of a child; but that if it had the outward form of a child, it was a child according to the Act of Parliament. The one contended that it ought to have attained to a state in which it could live; and the other that, at any rate, it should have the outward form of a child. Was there any proof of that sort here? The prisoner herself said she did not know whether she had been in the family way for three months. Taking the widest view of the learned judges, had what was born in this state the outward form of a child? If it had not, then the prisoner was not guilty of the offence charged against her."

It is not material here, as in the case of alleged infanticide, to prove *when* the child died—whether before, during, or after its birth; and thus those subtleties and technicalities which are met with in cases of child-murder are avoided. In regard to proof of concealment, and what constitutes it, these are essentially legal points; but a medical practitioner may sometimes benefit an accused person, if he can prove that the woman had made application to him on the

subject of her pregnancy and delivery. The law is especially lenient under such circumstances. Questions connected with concealment of birth do not fall under the jurisdiction of the coroner; the medical evidence is therefore required by a magistrate.

CRIMINAL ABORTION.

CHAPTER XLIII.

ABORTION FROM NATURAL CAUSES.—CRIMINAL CAUSES.—MECHANICAL MEANS.—MEDICINAL SUBSTANCES.—SIGNS OF ABORTION.—SPECIFIC ABORTIVES.—LOCAL APPLICATIONS.—FEIGNED ABORTION.—MEANING OF THE WORD NOXIOUS AS APPLIED TO DRUGS.—ON INDUCING PREMATURE LABOR.—PROOF OF PREGNANCY NOT NECESSARY.—ABORTION OF MONSTERS.—MOLES AND HYDATIDS.

BY abortion is commonly understood, in medicine, the expulsion of the contents of the uterus *before the sixth month of gestation.* If the expulsion take place between the sixth and ninth month, the woman is said to have a premature labor. The law makes no distinction of this kind, but the term abortion is applied to the expulsion of the fœtus at *any period of pregnancy* before the term of gestation is completed; and in this sense it is synonymous with the popular term *miscarriage.* Criminal abortion is rarely attempted before the third month; it is perhaps most common between the fourth and fifth month; because then a female begins for the first time to acquire a certainty of her pregnancy. The causes of abortion may be either *natural* or *violent.* The latter only fall under the cognizance of the law; but a medical witness should be well acquainted with the causes which are called natural, in contradistinction to others which depend on the application of violence. These *natural* causes are sometimes very obscure, and the real cause is often overlooked. They are so frequent, that, according to Mr. Whitehead's observation, of 2000 pregnancies, one in seven terminated in abortion. These causes are commonly ascribable to peculiarities in the female system, to the presence of uterine or other diseases, or to some moral shock sustained by a woman during pregnancy. Any diseases which strongly affect the uterus or general system of a woman may give rise to abortion. An attack of smallpox has been known to produce it; and it has been suggested by Mr. Acton, that the presence of constitutional syphilis in the father is not only a cause of infection in the offspring, but of repeated abortion in the female. ("Med. Gaz." vol. 36, p. 164; Ramsbotham's "Obstetric Medicine," p. 655.) These facts deserve attention, when it is proved that a woman has really aborted, and an attempt is un-

justly made to fix an alleged act of criminality on another. For further information on the numerous natural and accidental causes which may give rise to abortion, the reader may consult the work of Mr. Whitehead ("On Abortion and Sterility," p. 252; also, for the effects of undue laceration and disease of the placenta, in causing abortion, see "Med. Times and Gaz." Dec. 4, 1852, p. 580, and March 19, 1853, p. 302.) In considering the operation of these causes, it is proper to bear in mind that during pregnancy the uterus is subject to a natural periodical excitement, corresponding to what would have been the menstrual period dating from the last cessation. Hence comparatively trivial causes operating at these periods may lead to an expulsion of the fœtus.

The *violent* causes of abortion may be of an accidental or criminal nature. In general the distinction will not be difficult; the kind of violence, and the adequacy of the alleged cause to produce abortion will be apparent from the evidence. In reference to criminal cases, the causes may be referred either, 1st, to the use of *mechanical* means, or 2dly, of irritating *medicinal* substances acting upon the uterus or bowels. They operate with greater certainty just in proportion as the pregnancy is advanced.

Mechanical Means.—Among the mechanical causes may be mentioned—severe exercise, the violent agitation of the body, as by riding or driving over a rough pavement, in which case no marks of violence would be apparent. Any physical shock, sustained by the body, may operate indirectly on the uterus. Violent pressure or blows on the abdomen are sometimes resorted to; but in these cases the marks of violence will be commonly perceptible. Instruments have been devised for the purpose of piercing the membranes, destroying the child, and thereby leading to its expulsion. Devergie speaks of such instruments being well known in England, and of English midwives deriving a living from the practice of this crime. (Op. cit. vol. 1, p. 285.) Although this must be regarded as an exaggerated statement, it cannot be denied that cases have transpired which show that the crime is frequently perpetrated by persons who basely derive a profit from the practice; and for one case that comes to light probably a dozen are effectually concealed. In the evidence given on four trials within a recent period, the case presented no feature of novelty or interest. Instruments were employed, and drugs in large doses were proved to have been administered.

Mechanical means are undoubtedly more effectual in producing abortion than medicinal substances; yet, from the fact of such attempts being made by ignorant persons, the woman generally dies from inflammation of the womb or peritoneum, or other serious after-consequences. A case was tried some years since, in which the evidence showed that the prisoner had attempted to produce abortion in the deceased by thrusting wooden skewers in the substance of the uterus. Inflammation and gangrene took place, and the woman died. The prisoner was convicted and executed for murder. (For a similar case by Mr. M'Pherson, see "Med. Gaz." vol. 36, p. 102; see also another case in the same journal, vol. 45, p. 693.) This kind of in-

jury to the uterus always implies the interference of some other person in the perpetration of the crime. Mechanical means can seldom be applied to the uterus without leaving marks of violence on the organ, as well as on the body of the child. If the mother should die, a result which generally takes place, an inspection will at once settle the point. ("Ann. d'Hyg." 1834, 191; 1838, vol. 1, p. 425; 1839, vol. 2, p. 109.) An important case of this kind was the subject of a criminal trial in Scotland in 1858 (case of *Reid*, "Medical Gazette," December 11, 1858.) The uterus near its mouth presented two openings in its substance, described as punctured wounds by the medical witnesses for the prosecution who made the examination—and as the openings of torn bloodvessels by others who were called for the defence. There was also a rupture of one ovary. The prisoner was convicted; but the medical man who was supposed to have been the principal agent in the crime committed suicide. The case is chiefly important in showing that any apparent mechanical injury to the uterus should be minutely examined, so that no doubt of the cause may afterwards be entertained. If, in a case of this kind, the mother survives and the child be expelled, then marks of violence will be found on its body. These marks may not be sufficient to account for its death; but this is not here the question. If it can be proved that they have not resulted from accidental causes during gestation or subsequently to delivery, then their presence may furnish strong corroborative evidence of the actual means by which abortion was attempted. It is said that abortion has been in some instances accomplished by frequent bleeding from the arm. This effect may follow as a result of shock produced by the loss of blood. An examination of the veins of the arms would show whether any such attempt had been made.

There can be no doubt that of all the exciting causes of abortion, the most effectual, and that which most certainly brings on the expulsive action of the uterus, is the destruction of the ovum or embryo. If by accident or design the ovular membranes should become ruptured, gestation is arrested, and abortion necessarily ensues. At any period of pregnancy, therefore, a puncture through the membranes will sooner or later occasion the evacuation of the uterus. (Ramsbotham's "Obstetric Medicine," p. 655.) This author remarks that the performance of the operation demands a most accurate knowledge of the anatomy of the ovum and the maternal structures, as well as of the state of development which the neck of the uterus assumes at different periods of pregnancy. In medical practice, for the induction of premature labor, the membranes are ruptured either by the use of a female catheter, or by an instrument of this shape, but including a blade like a tonsil-lancet. Unless the inner membrane or amnion be opened, gestation may still proceed, and abortion will not take place. When the membranes are completely penetrated and the waters are discharged, uterine action is invariably induced, but the time which elapses from the performance of the operation to the commencement of labor, is subject to great variation. Dr. Ramsbotham states that he has known the uterus begin to act in *ten*

hours after the rupture, but in another case a week elapsed before its action commenced. As a general rule, uterine action is fully established in fifty or sixty hours. It must not be supposed, however, that where a criminal intention exists, so long a period is required for removing the contents of the uterus. The cases above referred to were cases of obstetric practice, in which there was no desire to expose the female to the slightest risk, and premature labor was openly induced. In a criminal attempt by a medical practitioner, in which the woman would be a consenting party to the act, the removal of the embryo or fœtus might be effected in a much shorter period of time. At any rate, the time for the completion of abortion could not be measured by cases in which the uterus has been left to undergo spontaneous contraction after the membranes had been punctured, and the waters had escaped. There would, however, be great danger to a woman in the necessary manipulations required. The reader will find reports, by M. Tardieu, of numerous cases of abortion as a result of mechanical means applied to the uterus, in the "Annales d'Hygiène," 1855, vol. 1, p. 406; and some good practical remarks by the same writer, on the mode in which these inquiries should be conducted, in the "Annales d'Hygiène," 1856, vol. 1, p. 141.

It is obvious that this mode of perpetrating abortion is only likely to succeed in the hands of persons who have a complete anatomical knowledge of the parts. The certain death of the woman will convert the crime to murder, when instruments are introduced into her body by persons who are ignorant of anatomy. It is to be regretted that members of the medical profession have on several occasions misused their professional knowledge, and have exposed themselves to prosecutions for this crime. Sometimes it is probable the charge has been raised falsely, or through misapprehension on the part of the woman; at others, the evidence has left it very clear that the charge was well-founded. Of late years medical men have rather freely used the speculum. When this instrument has been improperly or unnecessarily used on a pregnant woman, a charge of attempted abortion by instruments may be easily raised against a medical practitioner. A trial took place at the Exeter Lent Assizes, 1854 (*Reg.* v. *Griffin and Venn*), in which it was charged that the accused, Venn (a surgeon), had feloniously used an instrument with the intent to procure the miscarriage of the prosecutrix. According to the evidence, Venn had on several occasions passed a round polished instrument into the body of the woman, once in a coppice and at another time in a field. The defence was, that the surgeon had merely used a speculum to ascertain whether the girl was pregnant, in order to know how to prescribe for her; and that it was absurd to suppose that he had ever intended to procure abortion, for this had not followed, and it might have been easily produced by him at any period of pregnancy if the medical man had wished it. The prisoners were acquitted. Admitting the statements of the prosecutrix and the prisoner to be correct, it may be remarked that medical practitioners, in the lawful exercise of their profession, do

not commonly use a speculum in open fields or coppices to determine whether a female is pregnant or not; and it is a well-known fact that a speculum is not required for determining the question of pregnancy at all. This case conveys a serious caution to members of the medical profession.

Medicinal Substances.—These are, perhaps, more frequently resorted to for inducing criminal abortion than other means; but they rarely answer the intended purpose, and when this result is obtained, it is generally at the expense of the life of the woman. Mineral poisons have been ignorantly employed for this nefarious object—such as arsenic, corrosive sublimate, sulphate of copper, muriate of iron (*Reg.* v. *Wright*, Abingdon Autumn Assizes, 1855), and other irritants. Croton-oil, gamboge, colocynth, aloes (Henke, "Zeitschrift," 1844, vol. 2, p. 203), hiera picra, a mixture of aloes and canella, elaterium, and other drastic purgatives, have also been used for a similar purpose. Purgatives which produce much straining, and powerful emetics or diuretics, will readily excite abortion in the advanced stages of pregnancy; but these violent medicines fail in their effect at the earlier stages. A decoction of fern or of broom-tops has been sometimes used. The decoction of broom acts as a strong diuretic. In the case of *Reg.* v. *Morris* (Reading Lent Assizes, 1858), a decoction of fern was given to cause abortion, but it merely produced sickness. The substances just mentioned exert an indirect action on the uterus by producing a shock to the general system: but there is a certain class of bodies, called emmenagogues, which have a specific action on the uterus itself. Among these, the ergot of rye, or secale cornutum, may be particularly noticed. Other vegetable, animal, and mineral substances, which may be enumerated as having acquired popular repute for procuring abortion are savin, cantharides (see p. 151), rue, iron filings, squills, grains of paradise (*Reg.* v. *Rushforth*, York Autumn Assizes, 1857), pennyroyal, black hellebore, and tansy. M. Tardieu relates three cases in which a strong decoction of rue produced abortion at the fourth, fifth, and beyond the sixth month respectively, and the woman recovered. ("Ann. d'Hyg." 1855, vol. 1, p. 403.) Its operation as an abortive was generally preceded by well-marked nervous symptoms—*e. g.* giddiness and stupor, depression of the action of the heart, with nausea and severe pain in the stomach. ("Ann. d'Hyg." 1856, vol. 1, p. 135.) In April, 1856, a medical man was convicted before the Central Criminal Court of Sydney, of administering extract of belladonna in a suppository, with a view to procure abortion. In a case which occurred in France iodide of potassium was pronounced by three medical men to be an abortive ("Med. Times and Gazette," Jan. 29, 1859), but the grounds for this opinion are not given. None of these substances have any influence on the uterus, except in affecting it indirectly by their irritant action on the system. In the Coroners' return for 1857–8, there were four cases of the administration of savin and other drugs, with the view of procuring

abortion. In three of these cases, the mother died undelivered; in the fourth, the child perished.

Specific Abortives. Ergot of Rye, or Secale Cornutum.—This substance has been found, in many instances, to bring on violent action of the uterus at an advanced stage of gestation, or when efforts at parturition had already commenced. There is, however, considerable difference of opinion respecting its alleged specific properties. According to Dr. Lee, it has no effect, at least in the *early* stages of gestation, although given in very large doses. ("Med. Gaz." vol. 25, p. 10; see also "Edin. Med. and Surg. Jour." vol. 53, p. 27.) Dr. Kluge, of Berlin, found that its properties varied according to whether it was gathered before or after harvest; in the former case it had an energetic action, while in the latter it was powerless. The properties of the secale are but little known to the vulgar in this country; and this may account for the fact of our rarely hearing of cases in which it has been criminally administered by midwives to pregnant women. Dr. Beatty states that when used in obstetric practice, it is liable, by absorption into the system of the mother, which may take place within two hours, to endanger the life of the child. ("Dub. Med. Jour." May, 1844, p. 202.) This question was actually referred by the French Government to the Academy of Medicine in 1845, as there was reason to think that, under its employment in the practice of midwifery, children were frequently born dead. ("Ann. d'Hyg." 1846, vol. 1, p. 204; see also "Med. Gaz." vol. 46, p. 680.) In confirmation of Dr. Beatty's statement, Drs. M'Clintock and Hardy report, that, out of thirty cases in which it was administered, twenty children were born dead. ("Practical Observations," p. 95.) Dr. Ramsbotham considers that the drug may operate fatally on a child according to the circumstances under which it is administered; but that, unless it excites the expulsive action of the uterus, it has no effect on the child's system. (Op. cit. p. 319; also cases by Mr. Paterson, "Edin. Med. and Surg. Jour." vol. 53, p. 142.) According to M. Millet, in commenced or imminent abortion, ergot procures a safe and prompt termination; and he never met with a case in which it injured the child. ("Med. Chir. Rev." July, 1855, p. 41.)

On trial for criminal abortion, perpetrated or attempted, a medical witness must be prepared for a close examination on the specific emmenagogue properties of the ergot of rye on the uterus, as well as its general action as a poison on the woman and child. A case, which occurred a few years since (*Reg.* v. *Calder*, Exeter Lent Assizes, 1844), has been reported, with comments on this subject, by Dr. Shapter ("Prov. Med. Journ.," April 10, 1844). It was alleged on this occasion, that savin, cantharides, and ergot had been respectively given by the prisoner, a medical man, for the purpose of procuring miscarriage. The prosecutrix was a woman of notoriously bad character, and the prisoner was acquitted. There were three medical witnesses, who agreed that savin and cantharides were only likely to occasion abortion indirectly, *i. e.* by powerfully affecting

the system—the view commonly entertained by professional men. Some difference of opinion existed with regard to *ergot*. Dr. Shapter stated, in his evidence, that he did not think the ergot would act unless the natural action of the uterus had already commenced—a statement supported by a number of authorities. Subsequently to the trial, he collected the observations of many obstetric writers, and so far modified his opinion as to admit that the ergot might *occasionally* exert a specific action on the uterus, in cases of advanced pregnancy, even when uterine action had *not* already commenced. His summary on this subject is one of the best which has been published. Dr. Ramsbotham has reported three cases from which it would appear that the ergot may in some instances exert a direct action on the impregnated and quiescent uterus. In these instances, the women were in or about the *eighth* month of pregnancy. ("Med. Gaz.," vol. 14, p. 434.) This observation has been fully confirmed by further experience on the use of the drug. ("Med. Times and Gaz.," Jan. 7, 1854, p. 8; see also his "Obstetric Medicine and Surgery," p. 198.) Dr. J. H. Davis believes that it is a specific excitant of uterine action, and points out the cases in which, in his opinion, it may be safely employed. ("Lancet," Oct. 11, 1845, p. 393.) In one instance in which, owing to distortion of the pelvis, it was necessary to bring on labor six weeks before the full period, Mr. Raynes found that ergot in the form of infusion in repeated doses excited the action of the uterus, and delivery was accomplished within fifty-eight hours of the taking of the first dose. The uterus was in a quiescent state before the medicine was given to the patient. ("Med. Times and Gaz.," March 14, 1857, p. 260.) Mr. Whitehead, who has had considerable experience on this subject, has found that its action is very uncertain. In a case under his care, that of a woman with deformed pelvis, it was considered advisable to procure abortion in the fifth month of pregnancy; the ergot alone was employed, and at first with the desired effect. It was given in three successive pregnancies; and in each instance labor-pains came on after eight or ten doses had been administered, and expulsion was effected by the end of the third day. It was perseveringly tried in a fourth pregnancy in the same woman, and failed completely. ("On Abortion," p. 254.) It also failed in a case in the hands of Dr. Oldham. ("Med. Gaz.," vol. 44, p. 49.) Nevertheless, the balance of evidence is decidedly in favor of its specific action, as a direct uterine excitant; and according to Dr. Griffiths, this is so well known to the inhabitants of the United States, that it is there in frequent use as a popular abortive. Perhaps the differences which have been observed in its action may have depended on the quality of the drug, as well as on the period at which it was administered. Admitting that the uterus is subject to periodical excitement, corresponding to the menstrual periods, it is probable that the action of ergot may be more powerfully abortive at these than at other times. In a case in which I was consulted in 1860, an attempt had been made to administer secretly the ethereal tincture of ergot.

A case occurred at Brighton, in October, 1864, in which a ques-

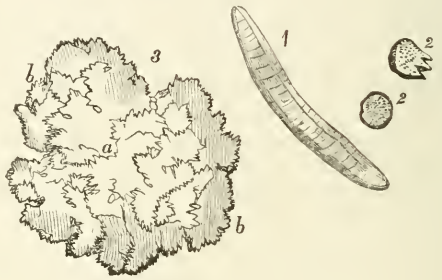
tion arose respecting the fatal effects of this drug on a woman who had taken it for a long period, obviously with a view to procure abortion. She died, however, without abortion having taken place; and the question at issue was, whether this drug had or had not caused her death. The dose taken was, I am informed, about a teaspoonful of the tincture of ergot three times a day, for a period of eleven weeks. On inspection, patches of inflammation were found on the mucous membrane of the stomach after death. No other cause for death was apparent, and one medical witness assigned it to the poisonous irritant action of the ergot, as, at the early stage of pregnancy which she had reached (the third month), this substance would not be likely to act as an abortive. Another medical gentleman who gave evidence at the inquest, asserted that death could never be primarily caused by ergot of rye. The qualification introduced into this medical opinion is of small importance. The deceased woman is reported to have taken a large quantity of the tincture, and it is immaterial whether the drug killed her by a primary or secondary operation. M. Tardieu describes the case of a woman, æt. 24, who aborted in the fourth month of pregnancy, as a result of the administration of ergot in powder; she died from peritonitis in about twenty-four hours. The ergot was found in fragments in the lower third of the bowels. ("Ann. d'Hyg.," 1855, vol. 1, p. 404.) At the same time this medical jurist states that, in his opinion, ergot of rye has no direct action as an abortive. ("Ann. d'Hyg.," 1865, vol. 1, p. 139.) In respect to its operation, it may be observed that the effects produced by its administration are not such as readily to excite suspicion. It does not cause the decided symptoms of irritation observed in the action of savin, nor the nervous symptoms which are usually produced by rue. In medicinal doses, given at proper intervals, the only marked effect which it produces on a pregnant woman is a lowering of the pulse. Sometimes other symptoms of a severe character have presented themselves. ("Ann. d'Hyg." 1856, vol. 1, p. 140.) If a person dies from the effects of the drug, the results are legally the same whether its operation as a noxious substance is of a primary or secondary kind.

Action of Ergot.—In doses of from half a drachm to two drachms ergot in powder has caused nausea, vomiting, dryness of the throat, great thirst, aversion to food, pain in the abdomen, slight purging, pain in the head, stupor, and dilatation of the pupils. (Pereira, "Mat. Med." vol. 2, pt. 1, p. 111.) Paralysis is said to have been observed among the symptoms. (See paper by Mr. Wright, "Edin. Med. and Surg. Jour." vol. 53, p. 14.) The medicinal dose of the powder in uterine diseases is from 5 to 15 grains. It is employed in a larger dose (from 20 to 60 grains at intervals of half an hour) to excite uterine action either for abortion or parturition. The dose of the tincture is one drachm (a teaspoonful); this is considered to be equivalent to 20 grains of the powder. The dose of the ethereal tincture, according to Pereira, when employed for the purpose of exciting uterine action, is one drachm every half hour for three or four doses. (Op. cit. p. 119.) Ergot must be regarded as a noxious

substance, and by some authorities it is ranked among narcotico-irritant poisons. It does not easily cause death in one large dose, but its fatal operation appears to be more strikingly developed by its long-continued use in small or medicinal doses. Its active properties are considered to be due to the presence of an oil which is soluble in ether. It also contains a solid principle, *ergotin*, which exerts a poisonous action on animals. The reader will find a large collection of cases, illustrating the properties of this drug, in Wibmer ("Arzneimittel und Gifte," vol. 2, p. 80—*Sphacelia segetum;* see also Pereira, "Mat. Med." vol. 2, pt. 1, 102.)

Analysis.—The form and characters of the ergot in mass are well known to professional men. In the annexed illustrations, 1 represents the ergot of rye of its usual form and size. The outer coat is dark-colored, almost black, and it is more or less grooved or fluted longitudinally, and pointed at each end. It is brittle, and breaks

Fig. 42.



The Ergot of Rye.

with a spongy or soft rough fracture. 2 2 represent transverse sections of the ergot of rye. The outer coat here forms a dark outline with depressions. The substance is of a pale reddish-white color. If a thin slice is wetted with a weak solution of potash, and is examined under a low power of the microscope, the outer dark coat gradually assumes a crimson or purple tint. Small fragments may be thus identified. 3 represents a transverse section of the ergot magnified thirty diameters. The spongy character of this substance *a* with its dark coat *b*, is here more distinctly delineated.

When the powder of ergot is rubbed with a solution of potash it evolves a fishy odor, and the solution acquires a dingy-red color. In the form of tincture, alcoholic or ethereal, one test is the peculiar odor of the extract when treated with potash. This may, however, be concealed by other odors. Sometimes small particles of ergot, presenting a pink-red color and a dark external coat, may be detected in the sediment by the microscope. When ergot has been taken in powder, fragments of it may be found scattered over the lining-membrane of the stomach or bowels; these may be identified by the characters described. The ethereal tincture evaporated

to an extract leaves an oily-looking residue, which, when treated with a solution of potash, acquires a light or pinkish-red color.

Savin. Oil of Savin.—This vegetable substance possesses great popular repute as an abortive. In a case which I was required to investigate in 1845, it was a question whether savin, which had been taken in the state of powdered leaves, and had caused the death of a woman, exerted any specific action on the uterus to induce labor. The reply was given, that in large doses it acted only indirectly as an abortive by its irritant properties. (See "Med. Gaz." vol. 36, p. 646.) It is proper to remember that the infusion is more powerful than the decoction; since the poison, being a volatile oil, is dissipated by long boiling. Savin is, however, commonly taken or administered in the form of powdered leaves. The irritant action of this powder has been elsewhere considered (p. 147). Any portion of the leaves dried and rubbed, will emit the peculiar odor of savin, by which it may be identified. Unless some traces of the leaves are found in the sediment there are no tests for detecting the decoction or infusion. For the microscopical appearance of the tips of the leaves see illustration at p. 148.

In a case tried at the Cornwall Lent Assizes, 1852 (*Reg.* v. *Pascoe*), the accused, a medical man, was convicted and sentenced to transportation for administering *oil of savin* to a woman, with intent to procure miscarriage. The proof of intent rested partly on medical and partly on moral circumstances. It appeared that the prisoner had given fourteen drops of the oil, divided into three doses, daily—a quantity which, according to the medical evidence at the trial, was greater than should have been prescribed for any lawful purpose. The medical dose, as an emmenagogue, on the authority of Christison, is from two to five *minims*, and according to Pereira from two to six *drops*. The quantity given by the prisoner, although a full dose, was not, therefore, greater than these authorities recommend; and his criminality appears to have rested not so much on the dose given, as on the question whether he knew, or, as a medical man, had reason to *suspect* that the female for whom he prescribed it was pregnant. No medical authority would recommend oil of savin in full doses for *pregnant* females; and with regard to the existence or non-existence of pregnancy in a special case, medical men are reasonably presumed to have better means of satisfying themselves than non-professional persons. The prisoner's innocence therefore rested on the presumption that he implicitly believed what the prosecutrix told him regarding her condition—that he had no reason to *suspect* her pregnancy, and therefore did not hesitate to select and prescribe a medicine which certainly has an evil reputation, and is rarely used by regular practitioners. According to the evidence of the prosecutrix, she informed the prisoner that she had disease of the heart and liver, and that nothing more was the matter with her. It is absurd to suppose that oil of savin would be prescribed by a medical man for such a disease as this. The prisoner, on the hypothesis of innocence, must have intended the medicine to act on the uterus, and must have inferred the existence of an obstruction of menstruation

from natural causes irrespective of pregnancy. The jury do not appear to have given him credit for such ignorance of his profession, and this probably led to his conviction. There can, it appears to me, be no doubt that the oil was administered with a guilty intention. Every qualified practitioner, acting bonâ fide, would undoubtedly satisfy himself that a young woman whose menses were obstructed was *not pregnant*, before he prescribed full doses of this oil three times a day, or he would fairly lay himself open to a suspicion of criminality. If pregnancy—a frequent cause of obstructed menstruation—were only *suspected*, this would be sufficient to deter a practitioner of common prudence from prescribing, in any dose, a drug which may exert a serious action on the uterine system. (A report of the case of Mr. Pascoe will be found in the "Med. Times and Gazette," April 17, 1852, p. 404.)

The oil of savin is obtained by the distillation of the tops in the proportion of about 3 per cent. by weight. It has a yellowish color, and the peculiar terebinthinate odor of the plant, by which alone it may be recognized. It may be separated from the contents of the stomach by agitating them in a bottle with its volume of ether, in which the oil is very soluble. The ether may be afterwards removed by distillation. The oil of savin forms a turbid mixture with alcohol (.826). When treated with its volume of sulphuric acid, it acquires a dark-brown color, and when this mixture is added to distilled water, a dense white precipitate is separated. The odor is the best test.

Oil of Tansy.—Dr. Hartshorne, an American physician, states that in the United States the *oil of tansy* (*Tanacetum vulgare*) has acquired the character of a popular abortive, and caused death in several instances. In England this oil and the herb have been chiefly employed for the purpose of expelling worms. Dr. Pereira quotes a case in which half an ounce of the oil proved fatal. The symptoms were spasms, with convulsive movements and impeded respiration; no inflammation of the stomach or bowels was discovered upon dissection. ("Mat. Med." vol. 2, pt. 2, p. 26.) The cases referred to by Dr. Hartshorne are—1. A teaspoonful of the volatile oil was taken by a girl in mistake for the essence. She complained of giddiness, and became insensible in ten minutes: convulsions came on, with frothing at the mouth, difficult respiration, and irregular pulse, and she died in one hour after taking the oil. ("Amer. Jour. Med. Sci." July, 1852, p. 279.) 2. The second case occurred to Dr. Dalton, and is reported by him in the same journal for January, 1852, p. 136. A healthy-looking girl, æt. 21, took eleven drachms of oil of tansy about six hours after a hearty dinner. She was found insensible and in convulsions soon after she had taken the drug. She died in three hours and a half. A strong odor of tansy was observed in the breath before death, and on inspection in the peritoneal cavity, stomach, and even the interior of the heart. The uterus contained a well-formed fœtus about four months old, which did not, either in itself or its membranes, present any evidence of having been disturbed. 3. In a third case (reported in "Amer. Jour. Med.

Sci." for May, 1835) a woman but a few weeks pregnant, took half an ounce of the oil; she did not entirely lose her consciousness until three-quarters of an hour had elapsed, although she was convulsed at intervals before that time. She died, without abortion being produced, within two hours after taking the poison. (For another case see "Med. Times and Gazette," April 13, 1861.) These facts show, that while oil of tansy possesses no specific action on the uterus as an abortive, and does not even affect this organ or its contents by sympathy, it is capable of acting as a powerful poison on the brain and nervous system, and of destroying life rapidly. The oil would be easily recognized, either before or after distillation of the contents of the stomach, by its peculiar and penetrating odor. It is very soluble in ether, and this may be employed for its separation.

Saffron, a decoction of the dried stigmas of saffron (*Crocus sativus*), has been employed as a popular abortive. Dr. Thomsen of Schleswig has reported a case in which abortion occurred in a woman who had taken repeated doses of a decoction of saffron with starch. There was reason to believe, however, that manipulations per vaginam had also been resorted to, and these may have had the principal share in bringing about the result. (Horn's "Vierteljahrschrift," Oct. 1864, p. 315.) According to Pereira, although saffron was formerly used as an emmenagogue and to promote uterine contractions, it is not established by any trustworthy observations that it possesses any medicinal properties. ("Mat. Med." vol. 2, pt. 1, p. 219.) In modern medicine its chief use is to give color and flavor to liquids. It has been observed, that when administered to pregnant women, the yellow coloring-matter has been absorbed, and the fœtus in utero has been stained by it. This appearance in the body of the fœtus might lead to a suspicion of its use, although no injury to the woman may have resulted.

It is remarkable that the action of the most powerful mineral irritant poisons has sometimes failed to affect the gravid uterus. In July, 1845, a case was referred to me for examination by Mr. T. Carter, of Newbury, in which a female, aged 22 years, who had passed the fifth month of pregnancy, took a large dose of arsenic, and died in less than seven hours, having suffered from severe vomiting and purging during that time: yet abortion did not take place! The effects of mineral substances upon the body have been fully described in the section on POISONING. Among them, attention may be especially directed to the action of muriate of iron. (See p. 146.) In a case tried at the Lincoln Summer Assizes, 1863, (*Reg.* v. *Rumble*), the prisoner, a druggist, was convicted of supplying this compound for the purpose of procuring the abortion of a pregnant woman. It had not that effect, but it very seriously injured her health: the prisoner also gave cantharides in pills. In reference to the medicinal use of mercury, it may be proper to state that Dr. Solomon has reported two cases, in which premature delivery appeared to follow the mercurialization of the system. (Casper's "Wochenschrift," June, 1845; "Med. Gaz." vol. 36, p. 658.)

Local Applications. Injections.—In a case which occurred in France, it was proved that abortion had been caused by the injection of some corrosive or irritating substance into the vagina. The female genitals, as well as the abdominal viscera, were found in a high state of inflammation. ("Med. Gaz." vol. 37, p. 171.) This is an unusual mode of perpetrating the crime, but it is one which can hardly escape detection. An analysis of the tissues might be required, in order to determine the nature of the substance used. It appears from a trial which took place at the York Summer Assizes, 1853, that this mode of attempting to produce criminal abortion has been the subject of a prosecution in this country. It was established by the evidence that some liquid was injected into the vagina with a syringe, but there was no proof of the nature of this liquid; and as it was not shown to be of a *noxious* nature, the learned judge who tried the case directed an acquittal. ("Lancet," July, 23, 1853, p. 89.) If it is essential that medical proof should be given that the liquid injected was of a noxious nature, then a loop-hole is left for the perpetration of the crime with impunity. I am informed by an obstetric practitioner of experience that an abortion might be induced by the frequent employment of injections of water alone, and that this is occasionally resorted to in practice, as a safe and convenient mode of effecting it. Numerous innocent liquids might be substituted for water. The words of the recent statute, however, by "other means whatsoever," would doubtless be considered to cover the use of any liquid, whether noxious or innoxious.

In general, when the criminal means taken to procure abortion are effectual in causing the expulsion of the child, it comes into the world dead; but it may be born alive and die after its birth. Under these circumstances, although no violence is applied directly to the body of the child, but its death is simply the result of immaturity or the feeble state in which it was born, the person causing such abortion might render himself liable to an indictment for murder.

Signs of Abortion in the Living and Dead.—These have been already considered in a previous chapter. (See "DELIVERY," ante, pp. 430 and 437.) The examination may extend to the woman either living or dead. In the former case there will be some difficulty, if the abortion has occurred at an early period of gestation, and several days have elapsed before the examination is made; in the latter case the investigation is not always free from difficulty. One fact here requires to be especially noticed. It is believed by many physiologists that menstruation is a state in some measure vicarious to conception, and the appearances presented by the generative organs during the menstrual period, are somewhat similar to those which are observed after conception in its early stage. Mr. Whitehead remarks, that in persons who have died while the menses were flowing, the uterine walls were thickened and spongy, and the mucous lining was more or less swollen and suffused. The neck and lips of the uterus were swollen, the orifice was open, and the vaginal membrane and clitoris involved in the increased action. One of the ovaries was found larger and more congested than ordinarily, pre-

senting evidences of the recent escape of an ovum. ("On Abortion," p. 196.) Unless these facts are attended to, an examiner may form an erroneous opinion respecting the chastity of a deceased female. For some remarks on the mode of conducting the examination of the woman, and of the embryo or fœtus in cases of abortion, see "Annales d'Hygiène" for 1856 (vol. 1, pp. 149 and 153).

Important questions may arise when it is alleged that abortion has been caused by the use of instruments, and death is referred to peritonitis as the result of their employment. In these cases a medical opinion should not be based upon the statements either of the female or of her friends, but upon some distinct and satisfactory medical proofs that mechanical violence has been done to the uterus, its contents, or its appendages. Peritonitis, or inflammation of the lining membrane of the abdomen, may arise from a variety of causes. If we assign it to a particular cause, and thus implicate another in a felonious cause, we should do this only upon medical facts obtained by an examination of the dead body; we should deal with such cases as if we knew nothing of their history. In May, 1863, I was consulted by Mr. Lewis, coroner for Essex, in reference to the death of a woman named *Susannah Barker*. It was supposed that her death had been caused by attempts made to produce criminal abortion. It appeared that after three days' illness deceased was taken in labor, and was delivered of a dead child, which was between the sixth and seventh month of uterine age. She died a few hours afterwards. On an inspection of her body, it was found that the cause of death was peritonitis. She had previously complained of great pain in her abdomen, and there was no doubt that peritonitis was developed before she was delivered; in fact, the peritonitis appeared to be the direct cause of the abortion. She admitted to her medical attendants that she had taken some powders to cause miscarriage, and, further, that a person calling himself a medical man had, about a week before, introduced two instruments into her body which had caused her great pain. Besides extreme inflammation of the peritoneum, which was the direct cause of death, the heart, lungs, and stomach were healthy, and the uterus presented no appearances excepting those arising from recent delivery; it was perfectly natural, and free from all marks of injury. There was no injury to the vagina, nor any wound in the peritoneum itself. There was no mark of violence on the body of the child; in short, this could have sustained no injury, as the membranes surrounding it were not ruptured. The medical gentleman who examined this case thought that the fatal peritonitis had been caused by the introduction of instruments into the vagina, and that this might occur without leaving after death any traces of their employment. At the same time it was admitted that a speculum used in the ordinary way would not produce peritonitis, and it was alleged in defence that a speculum only had been used.

The connection of the peritonitis with the alleged manipulations of the unlicensed practitioner rested more on surmise than proof. The absence of any bruise, puncture, or laceration affecting the vagina, uterus or fœtus, with the fact that, whatever may have been

the instruments used, the membranes were left entire, rendered it impossible to assign the peritonitis with absolute certainty to the acts of the person who was charged with causing the death of the woman. For anything that appeared to the contrary, he might have used a speculum, and it is well known that this instrument, although frequently introduced into the vagina, does not cause peritonitis. The connection of the peritonitis with instrumental violence, therefore, was not in this case established, and the jury by their verdict discharged the suspected person. They could not have done otherwise, for there was not the slightest *medical* proof that any instrument had been introduced into the vagina with a felonious intention.

Feigned Abortion.—For various motives, into the consideration of which it is here unnecessary to enter, a woman may charge another with having attempted or perpetrated a crime of abortion. Such a charge is not common, because, if untrue, its falsity may be easily demonstrated. A young woman, admitted into Guy's Hospital in April, 1846, charged a policeman (who, according to her statement, had had forcible intercourse with her) with having given her some substance to produce abortion, and with having subsequently effected this mechanically. She was not examined until nearly two months after the alleged perpetration of the crime, when the late Dr. Lever found that there was no reason to believe she had ever been pregnant. This was a case of feigned abortion. When charges of this serious kind are brought forward, they are always open to the greatest suspicion, unless made immediately after the alleged attempt, as it is then only that an examination can determine whether they are true or false. If so long delayed, as in this instance, without any satisfactory reason, the presumption is that they are false.

Legal Relations.—[See "Revised Criminal Code of Pennsylvania," §§ 87, 88.—P.] In the statute for the consolidation of the criminal law (24 & 25 Vic., chap. 100, ss. 58 & 59), the nature of this crime, and the proofs required to establish it have been more explicitly stated than in former acts. By clause 58 (on attempts to procure abortion), it is enacted that "Every woman, *being with child*, who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with like intent, and whosoever, with intent to procure miscarriage of any woman, *whether she be or be not with child*, shall unlawfully administer, &c., shall be guilty of felony." Formerly, women who endeavored to produce abortion in themselves were not guilty of any offence against the law.

In *Reg.* v. *Warboy* (Cent. Crim. Court, August, 1862), the prisoner, a widow, was convicted as an accessory before the fact to the felonious using by one Morgan of a certain instrument upon herself with intent thereby to produce miscarriage.

The latter portion of clause 58 makes it immaterial whether the woman were or were not with child, in accordance with the decision of the judges in *Reg.* v. *Goodhall* (1 Den. C. C. p. 187), and *Reg.* v. *Goodchild* (2 C. and K. p. 293.) Clause 59 is to the following effect:

"Whosoever shall unlawfully supply or procure any poison or other noxious thing, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, shall be guilty of a misdemeanor; and being convicted thereof, shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years." This clause is intended to check the obtaining of poison, &c., for the purpose of causing abortion, by making both the person who supplies and the person who procures it guilty of misdemeanor. It will be observed, in reference to these clauses, that the *means* employed, whatever their nature, must have been used with an *intent* to procure the miscarriage of a woman, a point which will be sufficiently established by a plain medical statement of the means employed. Supposing that a drug has been used, the witness will have to state whether it is "a poison or other *noxious* thing;" for this must be proved in order that the prisoner should be convicted of the crime. I must refer the reader to what has been said elsewhere (ante, p. 65), in order that he may be able to judge how far the substance administered would fall under the description above given. Whether it would or would not have the effect intended, *i. e.* of inducing abortion, is perfectly immaterial. Some uncertainty may exist as to the strict meaning of the word *noxious:* all will allow that the word implies something injurious to the system, but a difference of opinion may arise among medical witnesses with respect to its application to the substance under discussion—as, for example, with respect to rue or savin. (See p. 448.) A substance must be regarded as injurious to the body, or noxious, according to the form, quantity, or frequency with which it is administered. Savin, ergot, and rue are irritant: they become noxious when given in large doses, or in small doses frequently repeated. ("Ann. d'Hyg." 1838, vol. 2, p. 180.) Aloes and castor oil are innocent when taken in small doses; but they acquire noxious or injurious properties when administered frequently, or in large quantity, to a pregnant female. To confine the term "noxious," therefore, to what is strictly speaking a poison *per se*, would be giving a latitude to attempts at criminal abortion, which would render the law inoperative. (See the case of *Reg.* v. *Stroud*, Abingdon Sum. Ass. 1846.) The small quantity of the substance taken at once does not affect the question, provided the dose be frequently repeated. A case in which I was consulted by Mr. Reynolds (a former pupil), was tried at the Exeter Winter Assizes, 1844. Two powders, weighing each one drachm, were prescribed by the prisoner: one consisted of colocynth, the other of gamboge, and with them was half an ounce of a liquid (balsam of copaiba). They were to be mixed together, and a fourth part to be taken four mornings following. Mr. Reynolds said, in answer to the question whether such a mixture was noxious or injurious, that each dose would be an active purgative, and might thereby tend to produce abortion. One dose would not be productive of mischief in a healthy countrywoman,

but its frequent repetition might lead to serious consequences. In a trial which took place at the Norwich Lent Assizes, 1846 (*Reg.* v. *Whisker*), it was proved that the prisoner had caused to be taken by the prosecutrix a quantity of *white hellebore*, in powder, for the purpose of procuring abortion. One medical witness said he considered hellebore to be noxious to the system, but he knew of no case in which it had produced death; and under these circumstances he did not feel himself justified in calling it a poison. Another medical witness stated that, in his opinion, it belonged to the class of poisons. The judge, in summing up, told the jury that *that* was to be regarded as a poisonous drug which, in common parlance, was generally understood and taken to be such; and he thought the evidence sufficiently strong to bring hellebore within the meaning of the statute. The jury found the prisoner guilty, alleging that in their belief white hellebore was a poison. ("Med. Gaz." vol. 37, p. 830.) The only circumstance calling for remark in this case is, that any doubt should have been entertained by a medical practitioner respecting the poisonous properties of white hellebore. It is a powerful vegetable irritant, and has caused death in several instances; yet on this occasion it appears to have been admitted to be *noxious*, but not *poisonous!* The nature of the substance administered, and that it is *noxious*, should be proved. No speculative evidence is favorably received when some portion of the substance cannot be procured. In *Reg.* v. *Taylor* (Exeter Winter Ass., 1859) some powders had been given by the prisoner to a girl with the view of inducing abortion. No portion of the powders could be obtained for examination: but two medical gentlemen who heard the evidence gave their opinion that the powders were of a noxious nature. In the defence, it was urged that this had not been proved. The jury adopted this view, and returned a verdict of acquittal.

In reference to the proof of this crime, it is not required, under the circumstances, that any specific injury should have been done to the woman, or that abortion should have followed in order to complete the offence. There is every reason to believe that the crime is frequent, but its perpetration is secret. Applications are continually made to druggists by the lower class of people for drugs for this purpose: the applicants appear to have no idea of the criminality of the act. (See, in reference to the frequency of this crime, a paper in the "Medical Gazette," vol. 46, p. 487; also "Med. Times and Gaz." Nov. 21, 1857, pp. 524, 537.)

[The frightful frequency of intentional abortion in this country has long been notorious, no less than the extraordinary ignorance as to its criminality, even among well-educated persons. The recent able efforts of Profs. Storer, Hodge, and others, especially of Dr. Storer, with the formal action of the American Medical Association ("Trans.," xii. p. 75) will do much towards effecting a much needed reformation of public opinion, as well as of legal practice, in this matter. Dr. Storer (in chap. vii. of his series of articles on Criminal Abortion, published in vol. iii. 1859, of the "N. A. Med.-Chir. Rev." of Philada.) gives a complete and comprehensive exhibit of the laws

of each of the United States and of the ruling decisions in relation to criminal abortion. His concluding summary is sufficiently important to justify our quoting it in full, at the same time that we must refer to the previous pages of the same paper for a minute and well arranged statement of the statutory and judicial practice in each of the individual States.

"The destruction of an unborn child is not at the present day murder at the common law, though such was formerly the case (1 Russell, 'Crimes,' 671; 1 Vesey, 86; 3 Coke, 'Inst.,' 50; 1 Hawkins, C. B., s. 16; 1 Hale, 434; 1 East, P. C., 90; 3 Chitty, 'Crim. Law,' 798; Wharton, 'Crim. Law,' 537); to constitute which crime, the person killed must at the time of death have been alive (Davis, 'Crim. Justice,' 486), as we have shown the fœtus to be from the time of conception, and 'a reasonable creature in being' (Archbold, 'Crim. Pleading,' 490); a quality in this connection denied to the child by the law, though in all other relations it inconsistently allows and affirms it; as it does also, and always, from the moment of birth, even though the funis is undivided and the placenta still attached. (*Regina* v. *Trilloe*, 2 Moody, C. C., 260, 413.)

"To cause abortion after quickening is not, as such, murder or manslaughter at common law, but a high misdemeanor. (*The State* v. *Cooper*, 2 Zabriskie, 52; Hanes, 'U. S. Digest,' 5.)

"Whether to cause, or to attempt, abortion before quickening is a penal offence at common law, has been differently decided. In several of the States, as Maine, Massachusetts, and New Jersey, it has been ruled by the Supreme Court not to be indictable, even as an assault, if done with the consent of the woman; on the ground that only in case of high crimes is the person assaulted incapable of assenting. (*The Commonwealth* v. *Parker*, 9 Metcalf, 263; *The Commonwealth* v. *Bangs*, 9 Mass., 387; *The State* v. *Cooper*, 2 Zabriskie, 57; Hanes, 'U. S. Digest,' 5; *Smith* v. *State*, 33 Maine (3 Red.), 48.) The Pennsylvania court, however, has discarded this doctrine, and has decided that the moment the womb is instinct with embryo life, and gestation has begun, the crime may be perpetrated. (Bishop, 'Crim. Law,' 386; *Mills* v. *The Commonw.*, 1 Harris, Pa., 631, 633.)

"The distinction alluded to with regard to quickening, is allowed by an acknowledged legal authority (Wharton, 'Crim. Law of the U. S.,' 537) to be at open variance not only with medical experience but with all other principles of the common law. (1 Russel, 'Crimes,' 661; 1 Vesey, 86; 3 Coke, 'Inst.,' 50; 1 Hawkins, c. 13, s. 16; Bracton, i. 3, c. 21.) The civil rights of an infant in utero are respected equally throughout gestation; at every stage of which process, no matter how early, it may be appointed executor ('Bac. Ab.,' tit. Infants), is capable of taking as legatee (2 Vernon, 710), or under a marriage settlement (*Doe* v. *Clark*, 2 H. Bl., 399; 2 Vesey, jr., 673; *Thellusson* v. *Woodford*, 4 Vesey, 340; *Swift* v. *Duffield*, 6 Serg. & Rawle, 38), may take specifically as 'a child' under a general devise (Fearne, 429), and may obtain an injunction to stay waste. (2 Vernon, 710; *The Commonwealth* v. *Demain*, 6 'Penn. Law Journ.,' 29; Brightly, 441.)

"When, in an attempt to procure an abortion, there is an evident intent to produce the death of the mother, and her death does actually occur, such attempt becomes murder at common law. (1 Hale, 90; *The Commonw.* v. *Chauncey*, 1 Ashmead, 227; *Smith* v. *State*, 33 Maine (3 Red.). 48); but when nothing more is intended than to commit the misdemeanor, it is only manslaughter (Ibid.; Hanes, 'U. S. Digest,' 5), being an instance of homicide from individual malice toward a third party, when the fatal blow falls on the deceased by mistake. It has been said, however, that this last is not the true doctrine, the destruction of an infant in utero being, even at common law, in some respects felonious, and the act in its nature malicious and deliberate, and necessarily attended with danger to the person on whom it is performed. (Wharton, 'Law of Homicide,' 44.)

"The use of violence upon a woman, with an attempt to produce her miscarriage without her consent, rules Chief Justice Shaw of Massachusetts, is an assault highly aggravated by such wicked purpose, and would be indictable at common law. So where, upon a similar attempt, the death of the mother ensues, the party making such an attempt, with or without her consent, is guilty of murder, on the ground that it is an act done without lawful purpose, dangerous to life, and that the consent of the woman cannot take away the imputation of malice, any more than in case of a duel, where in like manner there is the consent of the parties. (*The Commonw.* v. *Parker*, 9 Metcalf, 263, 265; Davis, 'Crim. Jus.,' 281.)

"Though to kill the fœtus in utero is as such, by the common law, no murder, yet if it be born alive, and die subsequently to birth from the wounds it received in the womb, or from the means used to expel it, the offence becomes murder in those who cause or employ them. (1 *Blackstone*, 129; *Rex* v. *Senior*, 1 Moody, C. C., 346; 3 Inst., 50; Wharton, C. L., 537; Ibid., 'Law of Homicide,' 93.) If a person, intending to procure abortion, does an act which causes the child to be born earlier than its natural time, and therefore in a state much less capable of living, and it afterwards die in consequence of such premature exposure, the person who by this misconduct brings the child into the world, and puts it into a situation in which it cannot live, is guilty of murder, though no direct injury to the child be proved; and the mere existence of a possibility that something might have been done to prevent the death, does not lessen the crime. (*Rex* v. *West*, 2 Carr. & Kir., 784; 1 Bishop, C. L., 255; Wharton, 'Law of Homicide,' 93.)

"The earlier English statutes, from their peculiar phraseology, held pregnancy essential for the commission of the crime (*Rex* v. *Scudder*, 1 Moody, 216; 3 Car. & P., 605; overruling *Rex* v. *Phillips*, 3 Campbell, 73; Russell, Cr., 763, note); yet an attempt to produce abortion is now indictable at common law (if made without her consent?) though it fail by reason of the woman being, in fact, and contrary to the belief of the party, not pregnant. (*Regina* v. *Goodchild*, 2 Car. & Kir., 293; *Rex* v. *Goodhall*, 1 Den., C. C., 187; 3 Campbell, 76.) For though as no man would attempt what he absolutely knew he could not in fact perform, nor would be deemed in

law to have so attempted, and as every one being conclusively presumed to understand the law, no man can legally intend what is legally impossible, the rule as to facts is different; for men are not conclusively held by the law to know facts. And if a man fails in what he undertakes, because of an impossibility in fact, which he did not know, he is just as answerable as if the failure were from any other cause. (1 Bishop, 'Crim. Law,' 518.)

"We have seen the mistaken basis, as regards the criminalty of abortion, on which the common law is founded, and that while it recognizes the distinct existence of the fœtus for civil purposes, it here considers its being as totally engrossed in that of the mother.

"A recent authority thus accounts for and defends the mistake. The wealth and prosperity of the country, it is assumed, and the growth and efficiency of its population, are alike matters of general concern, and therefore the law takes them under its care. As to population, there are in civil jurisprudence such rules, as that the husband may hold the lands of his deceased wife during his life, if before her death a living child was born, but not otherwise; the law thus offering, in effect, a reward for issue. It does not compel matrimony, because that would be an infringement of private rights; but for the same end, it does punish abortions. (Bishop, 'Crim. Law,' 385.)

"Another writer has also implied that the common law, in making fœticide penal, had in view the great mischiefs which would result from even its qualified toleration; namely, the removal of the chief restraint upon illicit intercourse, and the shocks which would be sustained thereby by the institution of marriage and its incidents; among which the delicacy of women. (Wharton, 'Crim. Law,' 541.)

"In unison with these opinions, Judge Coulter, of Pennsylvania, has ruled, that 'it is not the murder of a living child which constitutes the offence, but the destruction of gestation.' (1 Harris, Pa., 631, 633.)

"If our previous assumptions of the actual character of criminal abortion be granted, and we believe that they have been proved to a demonstration, it must follow from the subsequent remarks, that the common law, both in theory and in practice, is insufficient to control the crime; that in many States of this Union, the statutory laws do not recognize its true nature; that they draw unwarrantable distinctions of guilt; that they are not sufficiently comprehensive, directly allowing many criminals to escape, permitting unconsummated attempts, and improperly discriminating between the measures employed; that they require proofs often unnecessary or impossible to afford; that they neglect to establish a standard of justification, and thereby sanction many clear instances of the crime; that by a system of punishments wholly incommensurate with those inflicted for all other offences whatsoever, they thus encourage instead of preventing its increase; and that in many respects they are at variance, not merely with equity and abstract justice, but with the fundamental principles of law itself." "Contributions to Obstetric Jurisprudence." By Horatio R. Storer, M. D., of Boston. "Crimi-

nal Abortion," part vii., from "N. Am. Med.-Chir. Rev." vol. iii., No. 5, Sept. 1859, pp. 851 to 854. See also the other five numbers of vol. iii. of the same journal for the remainder of this excellent series of papers on the subject.—H.]

On Inducing Premature Labor. Medical Responsibility.—It may be proper to offer her a few remarks upon the common practice of inducing *premature labor*, in certain cases of disease, of deformity of the pelvis, and in cases of excessive vomiting from pregnancy. This practice has been condemned as immoral and illegal; but it is impossible to admit that there can be any immorality in performing an operation to give a chance of saving the life of a woman, when, by neglecting to perform it, it is almost certain that both herself and the child will perish. (See, on the morality, safety, and utility of the practice, Ramsbotham's "Obstet. Med." p. 315.) The question respecting its illegality cannot be entertained; for the means are administered or applied with the bonâ fide hope of benefiting the female, and not with any criminal design. It is true that the law makes no exception in favor of medical men who adopt this practice, nor does it in the Statute on wounding make any exceptions in favor of surgical operations; but that which is performed without evil intention would not be held to be unlawful. The necessity for the practice ought to be apparent: thus, for instance, it should be shown that delivery was not likely to take place naturally, without seriously endangering the life of a woman. It is questionable whether, under any circumstances, it would be justifiable to bring on premature expulsion, merely for the purpose of attempting to save the life of a child, since the operation, unless performed with care, is accompanied with risk to the life of the mother. The grounds upon which many eminent authorities have objected to this practice are: 1. That there are few cases in which parturition, if left to itself, might not take place at the full period; 2. The toleration of the practice would lead to great criminal abuse; 3. It is attended with danger to the mother and child. It is undoubtedly true that parturition will sometimes take place safely at the full time, even when the deformity of the pelvis is apparently so great as to lead many accoucheurs to suppose natural delivery to be utterly impossible. Dr. Lilburn has reported the case of a woman who labored under great deformity of the pelvis, but who was twice delivered in safety, and the child survived. ("Med. Gaz." vol. 19, p. 933.) It is therefore not improbable that many cases of the kind are prematurely treated, which if left to themselves, would probably do well without interference. Hence a cautious selection should be made, because the operation is necessarily attended with some risk to the woman and child. All that we can say is, that, according to general professional experience it places her in a better position than she would be in if the case were left to itself. It appears to me that before a practitioner resolves upon performing an operation of this kind he should hold a consultation with others; and, before it is performed, he should feel well assured that natural delivery cannot take place without greater risk to the life of the mother than

the operation itself would create. These rules may not be observed in practice: but the non-observance of them is necessarily attended with some responsibility to a practitioner. In the event of the death of the mother or child, he exposes himself to a prosecution for a criminal offence, from the imputation of which even an acquittal will not always clear him in the eyes of the public. If the child were born alive, and died merely as a result of its immaturity, this might give rise to a charge of manslaughter. Within a recent period several practitioners have been tried upon charges of criminal abortion—whether justly or unjustly it is not necessary to consider; but they had obviously neglected to adopt those simple measures of prudence, the observance of which would have been at once an answer to a criminal charge. Because one practitioner may have frequently and successfully induced premature labor, without observing these rules, and without any imputation on his character, this cannot shield another who may be less fortunately situated. A charge is only likely to arise when a man has been unfortunate, and the responsibility of one operator cannot be measured by the success of others.

Proof of pregnancy is not essential to the crime of abortion. The attempt on a woman proved not to be pregnant, involves a person in equal responsibility. So if the body expelled is a monster, an extra-uterine conception or a blighted fœtus (a mole) the crime of abortion is as complete as if the woman was delivered of a child. It will be observed that in the statute the word miscarriage is used. In a popular sense (and here a *popular* appears to have been purposely selected in preference to a medical term), miscarriage signifies the violent expulsion not merely of a child but of moles and other diseased growths, or even of coagula of blood. In these last-mentioned cases, the woman is not actually pregnant although she and the accused may imagine that she is. But whether the uterus contains these morbid growths, or whether the organ is in the virgin state, the person who has used the means with *intent* may still be convicted of an attempt to procure abortion.

Chemical Evidence. Blood in Abortion. Liquor Amnii.—In the event of an abortion having taken place, stains produced by blood or by the waters (liquor amnii) may be found on the linen of a woman, and a practitioner may be required to say whether these stains are of a nature to throw any light upon the perpetration of the crime. A woman who has aborted may allege that the stains are those of the menstrual discharge. Speaking generally, there is no practical distinction between menstrual and other blood. The menstrual blood contains less fibrin, is commonly acid and watery from admixture with the mucous discharges, and when examined by the microscope it presents epithelial scales, or cells derived from the mucous membrane. These scales or cells belong to the columnar variety. Not much reliance can be placed upon their discovery, since the mucous membrane of the organs of respiration is lined with similar cells. Hence expectorated blood might be mistaken for menstrual. Cells of a similar shape line the whole of the mucous membrane from

the stomach to the anus. The blood of piles might thus be confounded with menstrual blood. The blood discharged in abortion will present the usual characters of blood elsewhere described; but it may be diluted by the waters simultaneously discharged (p. 239). This question received the special attention of the French Academy a few years since in reference to the crime of abortion; and the report made was to the effect that in the present state of science there was no certain method by which the blood of menstruation could be practically distinguished from the blood discharged in a case of abortion or infanticide ("Ann. d'Hyg.," 1846, vol. i. p. 181.) In a more recent case, MM. Devergie and Chevallier were required to state whether certain stains on the dress of a woman, supposed to have aborted, were or were not caused by the waters (liquor amnii). A chemical analysis merely revealed the presence of an albuminous liquid. The most elaborate experiments satisfied the reporters that neither by the odor, nor by any other process, could the liquor amnii, dried on linen, be identified. See "Ann. d'Hyg.," 1852, vol. 2, p. 414.) It may, however, be of importance to observe that this liquid slightly discolors and stiffens the fibre of the stuff on which it has been effused, and that it can be readily extracted by cold water. The solution possesses all the properties of albumen. The amount of albumen contained in the liquor amnii decreases as gestation advances. At the fourth month it forms 10.77 per cent. of the liquid; at the fifth month 7.67; at the sixth month 6.67; and at the ninth month only 0.82. M. Chevallier's experiments show that the amniotic liquid has all the usual chemical properties of a very diluted solution of albumen ("Ann. d'Hyg.," 1856, vol. i. p. 156).

INFANTICIDE.

CHAPTER XLIV.

NATURE OF THE CRIME.—MEDICAL EVIDENCE AT INQUESTS—UTERINE AGE OR MATURITY OF THE CHILD.—CHARACTERS OF THE CHILD FROM THE SIXTH TO THE NINTH MONTH.—SIGNS OF MATURITY.—RULES FOR INSPECTING THE BODY.

By infanticide, we are to understand in medical jurisprudence the murder of a *new-born* child. The English law, however, does not regard child-murder as a specific crime; it is treated like any other case of murder, and is tried by those rules of evidence which are admitted in cases of felonious homicide. In stating that homicide is the term applied to the murder of a *new-born* child, it is not thereby implied that the wilful killing should take place within any particu

lar period after birth. Provided it be proved that the child has actually died from violence, it matters not whether it has been destroyed within a few minutes, or not until several days after its birth. In the greater number of cases of infanticide, however, we find that the murder is commonly perpetrated either at the time of birth or within a few hours afterwards. Although the law of England treats a case of infanticide as one of ordinary murder, yet there is a difference in the nature of the medical evidence required to establish the murder of a new-born child. It is well known that many children come into the world dead, and that others die from various causes soon after birth; in the latter the signs of their having lived are frequently indistinct. Hence, to provide against the danger of erroneous accusations, the law humanely presumes that every new-born child has been born dead, until the contrary appears from the medical or other evidence. The onus of proof that a living child has been destroyed, is thereby thrown on the prosecution, and no evidence imputing murder can be received, unless it be first made certain, by medical and other facts, that the child survived its birth, and was actually living when the alleged violence was offered to it. Hence there is a most difficult duty cast upon a medical witness on these occasions.

In most instances, however, the body of the child is found, an inquest is held, and medical evidence is demanded. In giving evidence at a coroner's inquest in a case of child-murder, as much care should be taken by a practitioner as if he were delivering it before a judge at the assizes. Some medical witnesses are disposed to treat an inquest with indifference, and to be careless in their evidence, thinking probably that should the case come to a trial, they could easily prepare themselves, and amend any statements which had been hastily made before a coroner's jury. But it should be remembered that the depositions taken by this officer are placed at the trial in the hands of the judge, as well as of the prisoner's counsel; and should a witness deviate in his evidence from that which he gave at the inquest, or should he attempt to amend or explain any of the statements then made, so that they might, by the ingenuity of a barrister, be represented as having a new bearing on the prisoner's case, he would expose himself not merely to a severe cross-examination, but probably to the censure of the court. If medical men were to reflect that in delivering their opinions before a coroner and jury they are, in many instances, virtually delivering them before a superior court, it is certain that many unfortunate exposures would be easily avoided.

Uterine Age or Maturity of the Child.—One of the first questions which a witness had to consider in a case of alleged child-murder is that which relates to the age or probable degree of maturity which the deceased child may have attained in utero. The reason for making this inquiry is, that the chances of natural death, in all new-born children, are great in proportion to their immaturity; and that, supposing them to have survived birth, the signs of their having breathed are commonly obscure. It is found that the greater number

of children who are the subjects of these investigations, have reached the eighth or ninth month of gestation; yet charges of murder might be extended to the wilful destruction of children at the seventh month or under, provided the evidence of life after birth was clear and satisfactory.

The following are the characters whereby we may judge of the uterine age of a child from the *sixth* to the *ninth* month of gestation, a period which may be considered to comprise cases of abortion as well as child-murder:—

1. Between the *sixth* and *seventh* months: The child measures, from the vertex to the sole of the foot, from ten to twelve inches, and weighs from one to three pounds. The head is large in proportion to the trunk; the eyelids are adherent, and the pupils are closed by membranes (membranæ pupillares). The skin is of a reddish color, and the nails are formed; the hair loses the silvery lustre which it previously possessed, and becomes darker. Ossification proceeds rapidly in the chest bone, and in the bones of the foot; the brain continues smooth on its surface; there is no appearance of convolutions. In the male the testicles will be found in the abdominal cavity, lying upon the psoæ muscles immediately below the kidneys.

2. Between the *seventh* and *eighth* months: The child now measures between thirteen and fourteen inches in length, and weighs from three to four pounds. The skin is thick, of a more decidedly fibrous structure, and covered with a white unctuous matter which appears for the first time. Fat is deposited in the cellular tissue, whereby the body becomes round and plump; the skin previously to this is of a reddish color, and commonly more or less shrivelled; the nails, which are somewhat firm, do not quite reach to the extremities of the fingers; the hair is long, thick, and colored; ossification advances throughout the skeleton; valvulæ conniventes appear in the small intestines, and meconium is found occupying the cæcum and colon. The testicles in the male about this period commence their descent; or rather, the child's head being downwards, their ascent towards the scrotum. The time at which these organs change their situation is probably subject to variation. According to J. Hunter, the testicles are situated in the abdomen at the seventh, and in the scrotum at the ninth month. Burns believes that at the eighth month they will commonly be found in the inguinal canals. The observation of the position of these organs in a new-born male child is of considerable importance in relation to maturity, and it may have an influence on questions of legitimacy as well as of child-murder. Mr. Curling thus describes their change of position: At different periods between the fifth and sixth months of fœtal existence, or sometimes even later, the testicle begins to move from its situation near the kidney towards the abdominal ring, which it usually reaches about the *seventh* month. During the eighth month it generally traverses the inguinal canal, and by the end of the ninth arrives at the bottom of the scrotum, in which situation it is commonly found at birth. ("Diseases of the Testis," 2d ed., p. 17.) Its

absence from the scrotum does not necessarily indicate that the child is immature, because the organ sometimes does not reach the scrotum until after birth.

3. Between the *eighth* and *ninth* months: The child is from fifteen to sixteen inches in length, and weighs from four to five pounds. The eyelids are no longer adherent, and the membranæ pupillares have disappeared. The quantity of fat deposited beneath the skin is increased, and the hair and nails are well developed. The surface of the brain is grooved or fissured, but presents no regular convolutions; and the cineritious matter is not yet apparent. The meconium occupies almost entirely the large intestines; and the gall-bladder contains some traces of a liquid resembling bile. The testicles in the male may be found occupying some part of the inguinal canal, or they may be in the scrotum. The left testicle is sometimes in the scrotum, while the right is situated about the external ring.

4. *Ninth Month. Signs of Maturity.*—At the ninth month the average length of the body is about eighteen inches, and its weight from six to seven pounds; the male child is generally rather longer, and weighs rather more than the female. Extraordinary deviations in length and weight are occasionally met with. Mr. Owens has recorded a case in which a child at delivery measured twenty-four inches in length, and weighed seventeen pounds twelve ounces ("Lancet," December, 1838), and Dr. Meadows has reported another in which a child measured after death thirty-two inches, and weighed eighteen pounds two ounces. It survived four hours. ("Med. Times and Gaz." August 4, 1860.) In a case which I was required to examine in June, 1842, the child, a male, measured twenty-two inches, and weighed twelve pounds and a half. (For some practical remarks on this subject, by Dr. Ellsässer, see Henke's "Zeitschrift, 1841, vol. 2, p. 235.) According to Dr. Duncan, the length and weight of a child vary according to the age of the mother. They are greatest among children when the mother is from 25 to 29 years of age. When a woman is 25, the child weighs less. The child of a woman at 22, weighed seven pounds three ounces, and that of a woman at 30, seven pounds seven ounces. The length varied in a less degree, being, for the different ages, at or about nineteen inches. ("Ed. Monthly Journal," Dec. 1864, p. 500.)

At the full period the head of a child is large, and forms nearly one-fourth of the whole length of the body. The cellular tissue is filled with fat, so as to give considerable plumpness to the whole form, while the limbs are firm, hard, and rounded: the skin is pale; the hair is thick, long, and somewhat abundant; the nails are fully developed, and reach to the ends of the fingers—an appearance, however, which may be sometimes simulated in a premature child, by the shrinking of the skin after death. The testicles in the male are generally within the scrotum. Ossification will be found to have advanced considerably throughout the skeleton. The surface of the brain presents convolutions, and the cineritious or gray matter begins to show itself. The internal organs, principally those of the

chest, undergo marked changes, if the act of respiration has been performed by the child before, during, or after its birth.

The characters which have been here described as belonging to a child at the different stages of gestation, must be regarded as representing an average statement. They are, it is well known, open to numerous exceptions; for some children at the ninth month are but little more developed than others at the seventh. Twins are generally smaller and less developed than single children:—the average weight of a twin child is not more than five pounds, and very often below this. The safest rule to follow in endeavoring to determine the uterine age of a child is to rely upon a majority of the characters which it presents. That child only can be regarded as *mature*, which presents the greater number of the characters described, that are met with in children at or about the ninth month of gestation.

If the age of the child has been determined: whether it be under or over the seventh month, the rules for a further investigation will be the same. Should the child be under the seventh month, the medical presumption will be, that it was born dead; but if it has arrived at the full period, then the presumption is that it was born alive.

Conclusions.—The following may be taken as a summary of the principal facts upon which our opinion respecting the uterine age of a child may be based:—

1. At *six months.*—Length, from nine to ten inches; weight, one to two pounds; eyelids agglutinated; pupils closed by membranæ pupillares; testicles not apparent in the male.

2. At *seven months.*—Length, from thirteen to fourteen inches; weight, three to four pounds; eyelids not adherent: membranæ pupillares disappearing; nails imperfectly developed; testicles not apparent in the male.

3. At *eight months.*—Length, from fourteen to sixteen inches; weight, from four to five pounds; membranæ pupillares absent; nails perfectly developed, and reaching to the ends of the fingers; testicles in the inguinal canal.

4. At *nine months.*—Length, from sixteen to twenty-one inches; weight, from five to nine pounds; membranæ pupillares absent; head well covered with fine hair; testicles in the scrotum; skin pale; the finger nails well formed and reaching to the ends of the fingers; features perfect—these and the body are *well developed* even when the length and weight of the child are less than those above assigned.

5. The point of attachment of the umbilical cord, with respect to the length of the body, affords no certain evidence of the degree of maturity.

Inspection of the Body.—The questions which a medical jurist has to solve, in examining the body of a new-born child, are—1. To determine its age, or the stage of uterine life which it has reached; 2. Whether it has lived to breathe; 3. Whether it has been born alive; 4. The period of time which has elapsed since its death; 5. The cause of death, whether violent or natural.

Hence, before commencing the inspection—

1. The length (measured from the summit of the head to the sole of the foot) and weight of the body should be taken; 2. The presence or absence of external fœtal peculiarities noticed; 3. Any peculiar marks or indications of deformity whereby identity may be sometimes established; 4. All marks of violence, in the shape of wounds, bruises, or lacerations, and the kind of instrument or weapon by which they were probably produced; 5. Whether the umbilical cord has been cut and tied, or lacerated; the appearance of the divided vessels, and the length of that portion which is still attached to the body of the child; 6. The presence or absence of vernix caseosa about the groins, arm-pits, or neck—the presence of this substance proves that a child has not been washed or attended to; 7. It will be necessary to state whether there are about the body any marks of putrefaction, indicated by a separation of the cuticle, change of color in the skin, or offensive odor. It is obvious, that unless these circumstances are noticed before the inspection is commenced, they may be entirely lost as evidence. Notes should be made on the spot, and the original retained, even if copies be subsequently made.

CHAPTER XLV.

EVIDENCE OF LIFE BEFORE RESPIRATION.—PUTREFACTION IN UTERO.—EVIDENCE OF LIFE AFTER RESPIRATION.—COLOR, VOLUME, CONSISTENCY, AND ABSOLUTE WEIGHT OF THE LUNGS.—STATIC TEST.—WEIGHT INCREASED BY RESPIRATION.

THE question whether a child was or was not *born alive*, is of great importance in a case of alleged child-murder; and it is unfortunately one which, in respect to the proofs upon which medical evidence is commonly founded, has given rise to considerable controversy. When it is stated that in most cases of alleged infanticide which end in acquittals in spite of the strongest moral presumptions of guilt, the proof fails on this point only, it must be obvious that this question especially claims the attention of a medical jurist. The medical evidence of a child having been alive, when violence was offered to it at its birth or afterwards, may be divided into two parts: 1, that which is obtainable before the act of respiration is performed; and 2, that which is obtainable afterwards. At present it will be proper to confine our attention to the question, whether the child was legally *living* when it was maltreated—the fact of its having been *born* alive will be a matter for future consideration. These two questions have been frequently but improperly associated, thus rendering the subject confused; but it must be so obvious as scarcely to require stating, that violence of a murderous kind may be offered to a living child *before* it is entirely born; and that owing to this violence it may come into the world dead.

Proofs of Life before Respiration.—It was formerly supposed, if the lungs contained no air, that the child could not have breathed, and must have been born dead; but this is now proved to be an error. Children have been known to breathe feebly, and continue in existence many hours without visibly distending the cells of the lungs with air—the absence of air from the lungs, therefore, furnishes no proof either that respiration has not been performed, or that the child has not lived. The restoration of many children apparently born dead is a clear proof that many are born living who might be pronounced dead, simply because breathing and life have been considered synonymous terms. That our law-authorities will admit evidence of life in a child before the establishment of respiration, is clear from the decision in *Rex* v. *Brain*, in which the judge said, that a child might be born alive, and not breathe for some time after its birth ("Archbold, Crim. Plead." 367), as also from the charge of Coltman J. in the case of *Rex* v. *Sellis* (Norf. Spr. Circ. 1837). In this instance it was alleged that the prisoner had murdered her child by cutting off its head. The judge directed the jury, that if the child was *alive* at the time of the act, it was not necessary, in order to constitute murder, that it should have breathed. In fact, it would appear that respiration is regarded as only *one* proof of life; and the law will, therefore, receive any other kind of evidence which may satisfactorily show that the child has lived, and make up for the proof commonly derived from the state of the lungs. It will be first necessary for a medical practitioner to prove that the child under examination has recently died, or in other words, that there are good grounds for believing it to have been *recently living*. Hence, if the body is highly putrefied, either from the child having died in the uterus some time before birth, or from its having been born and its body not discovered until putrefaction had far advanced both internally and externally, the case is utterly hopeless. The medical witness will in general be compelled to abandon the investigation, because the body can furnish no evidence whatever of life after birth. The examination of the thoracic organs would throw no light on the case, for here we are assuming that the lungs are in their fœtal condition.

Evidence from Marks of Violence.—It has been proposed to seek for evidence of life, under these circumstances, by observing the characters presented by marks of violence on the body. In general, when children are murdered, the amount of violence inflicted is considerably greater than that which is required to destroy them, whereby satisfactory proofs of the crime are occasionally obtained. On the other hand, the body of a still-born child, dead from natural causes, is often covered with lividities and ecchymoses; the fœtal blood does not coagulate with the same firmness as in the adult: hence the evidence derivable from the extent, situation, and characters of marks of violence, is generally of too vague and uncertain a kind to allow of the expression of a medical opinion that the child was living when the violence was offered to it. The characters which have been already described as peculiar to wounds and con-

tusions inflicted during life, may be met with in a child, whether it has breathed, or died without breathing. So, again, these characters are open to the exceptions there pointed out; for they will be equally present, supposing the wounds to have been inflicted immediately after the cessation of respiration or circulation in the child, or after the cessation of circulation only—if the act of respiration has not been performed. Marks of violence on the body of a child that had died in utero twenty-four or forty-eight hours before it was born, would not present the characters of injuries inflicted on the living. There would be no ecchymosis and no effused coagula of blood. These marks, when they exist, although they may establish that a child was either living or but recently dead at the time they were inflicted, can never show that it was born alive. Injuries met with on the bodies of children alleged to have been born dead ought, however, to be of such a nature as to be readily explicable on the supposition of their having arisen from accident. If, from their nature, extent, or situation, they are such as to evince a wilful design to injure, it is a fair ground for a jury—not for a medical witness, to inquire why these extensive wounds, or other marks of violence, were inflicted on a child, if, as it is alleged, it was really born dead. It must be confessed that in such a case there would be a strong moral presumption of murder, although medical proof of life, or actually live birth, might totally fail.

As a summary of these remarks, it may be observed, that although physiologically a child may live for a certain period after its birth without breathing—and legally its destruction during this period would amount to murder, yet there are at present no satisfactory medical data to enable a witness to express a positive opinion on this point. If other evidence were adduced of a child having lived and been destroyed under these circumstances—as where, for example, a woman causes herself to be delivered in a water-bath, or an accomplice covers the mouth of an infant in the act of birth, or immediately after it is born—a medical witness would be justified in asserting that the absence of the signs of respiration in the lungs was no proof that the child had been born dead. Indeed, it is apparent that the process could not be established, owing to the criminal means actually employed to prevent it. Whether a jury would convict upon such evidence is doubtful; but this is of no importance to the witness:—his statements ought always to be made according to correct and well-ascertained medical principles, and not for the purpose of procuring either the conviction or acquittal of persons accused of offences against the law. In general, those cases in which questions relative to life before respiration might arise are stopped in the Coroner's court—the usual practice being, when the signs of respiration are absent or imperfect, to pronounce that the child was born *dead*. If the lungs sank in water, the presence of marks of violence on the body would be considered as furnishing no evidence:—for the sinking of the lungs would in general be taken as a proof of still-birth.

There is a class of cases in which a child is born alive, but its

lungs remain in the fœtal condition, *i.e.* they present no appearance of having received air by the act of breathing. These are cases of atelectasis (p. 480). The appearances in the body are the same as in still-born children. Prof. Donders, who met with one of these cases in which he pronounced a child to be still-born when it was distinctly proved that it had lived twelve hours, says truly, "Where the signs of an extra-uterine life, which does not betray itself by air in the lungs are to be found, futurity must declare."

The absence of air from the lungs may really be the result of the forcible prevention of respiration in the act of birth. There cannot be the slightest medical doubt that living children are occasionally thus destroyed: they die, not from the actual infliction of violence, but because, either through design or accident, the performance of that act which is necessary to maintain existence when the child is born, is prevented. Such a case has not yet been decided, although from the dicta of our judges, it would probably involve a charge of murder.

Proofs of Life after Respiration.—There is no doubt that the proof of the act of respiration furnishes the best and strongest evidence of a child having lived at or about the time it was born. It does not, however, show that a child has been *born alive.* The physical changes in the body of a child, which result from the establishment of this process take place in the lungs immediately, and in the heart and its appendages more slowly. It is therefore chiefly to the *lungs* that a medical witness looks for proofs of respiration. Sometimes, however, these organs are found in their fœtal condition, or nearly so:—for although a child may have survived its birth many hours, there may be no evidence of the fact from the state of the lungs. To such cases the remarks now about to be made cannot of course apply:—the proofs of life must then be sought for elsewhere, and if none can be found, the case is beyond the reach of medical evidence. But it is obvious that the occasional occurrence of cases of this description can present no objection to our still seeking for proofs of life in the state of the lungs, any more than the fact of poison not being always discovered in the body of one who has died from poisoning would be a bar to our seeking for the proofs of poison in any unknown case which presented himself. It is the more necessary to insist upon this point, because some have held, that, as we cannot always derive proofs of life from an examination of the lungs of new-born children, we should abandon all evidence of this description and leave the case in its original obscurity. The very object of medical jurisprudence is, to endeavor to remove these difficulties, and to show in every department of the science, the degree to which we may safely trust the medical proofs of crime, however insufficient, inconsistent, or contradictory they may at first sight appear.

Examination of the Lungs.—The cavity of the chest may be conveniently laid open by carrying incisions from below the clavicles downwards on each side from about half the length of the ribs backwards. The diaphragm should be separated from the cartilages

without opening the abdomen; the ribs sawn or cut through, and the flap formed by the anterior parietes of the chest turned upwards. The differences in the relative position of the organs of the chest before and after respiration may be thus stated: 1. If a child has *not breathed*, the thymus gland, as large as the heart, will be found occupying the upper and middle portions of the chest; the heart within its membrane (pericardium) is situated in the lower and middle portion, and is rather inclined to the left side. The lungs are placed quite in the back part of the chest, so as often to give the impression that they are wanting. In some instances they project slightly forwards by their anterior margins, but in no instance, unless congested, infiltrated, or otherwise diseased, do they cover and conceal the heart. The thymus gland is sometimes of a pale fawn, at others of a deep livid color; but there is no perceptible difference in this organ in new-born childen, before or after the performance of respiration. 2. On the other hand, when a child has *fully breathed*, the most striking differences will be observed in the color and prominence of the lungs. They are of a light red hue, project forwards, appear to fill the entire cavity of the chest, and cover, and in great part conceal by their anterior margins, the heart and its membrane. We may meet with every variety in the appearances between these two extremes; for the process of respiration often requires a considerable time in order that it should be *fully* established, especially in children which are of a weakly constitution or prematurely born. Hence the lungs will be found to occupy their respective cavities to a greater or less extent, and to cover the pericardium more or less, not according to the length of time which a child has lived, but according to the perfection with which respiration has been performed. Although, as a general rule, the lungs are more perfectly filled with air in proportion to the time during which a child survives its birth, yet this is open to numerous exceptions. The physical characters of the lungs now require notice.

Color.—The color of the lungs *before respiration* is bluish-red, or deep violet, but it is subject to variation. Some medical jurists have compared it to the color of the spleen. A short exposure to air will materially brighten the color in the parts exposed, so that it should be observed and recorded immediately on opening the chest. *After respiration*, the lungs acquire a light red hue in proportion to the degree in which the process has been performed. If imperfectly established, they will be mottled, generally about the anterior surfaces and margins, the patches of light red being intermixed with the livid fœtal hue, and being slightly raised, as if by distension, above the general surface of the organs. The light red tint changes after a short exposure to air, to a bright scarlet.

Volume.—Before respiration the lungs are in general scarcely visible, unless forcibly drawn forwards in the chest. When it has been perfectly accomplished, the volume is so much increased, that the bag of the heart (pericardium) is almost concealed by them. Respiration must, however, have been perfectly performed in order that this condition should exist to the full extent described.

Consistency.—The lungs, *before respiration*, feel like the liver, or any other of the soft organs of the body. They are firm under the finger, but their substance may be lacerated by violent compression. *After respiration* has been fully performed, there is a distinct sensation of what is termed crepitation, on compressing them, *i. e.* air is felt within them. If a thin section of the lung is submitted to examination with a low power of the microscope, *before respiration*, it will present the solid appearance of a section of the liver, spleen, or kidney, after respiration, air-cells will be distinctly seen in it. These conditions of the lungs must, of course, depend on the degree to which respiration has been carried. The lungs of children that have lived for a considerable time after birth will sometimes give no feeling of crepitation under the finger. Generally speaking, lungs of this kind present the other fœtal characters; thus they are small and of a livid color, and no air-cells may be detected on a microscopical examination.

Absolute Weight of the Lungs. The Static Test.—The absolute weight of the lungs before respiration is less than that which they have after the establishment of the process. From this an inference has been drawn that the absolute weight of the lungs in an unknown case, compared with certain averages, will aid the inquirer in ascertaining whether respiration has or has not been performed. In order to determine the weight the lungs, these organs should be carefully separated by dissection from the heart and thymus gland, and removed with the trachea and bronchi attached. Previously to their removal, ligatures should be placed on the pulmonary vessels, so that no blood may escape from the lungs. They should now be weighed and the weight accurately noted in grains. The average weight *before respiration*, derived from nine cases, was found to be 649 grains. According to Dr. Traill, the weight varies from 430 to 600 grains. It is of importance in taking the weight of these organs to observe whether the child is at or near maturity, and whether its body is fully developed, or of about *the average size and weight;* owing to a neglect of this rule, it is highly probable that comparisons have been made of the absolute weight of the lungs in children of different ages, which a full statement of the facts would not have justified. If it be small and immature, or unusually large, the lungs will weigh either less or more than the average. The average weight of the lungs *after respiration* derived from three cases, was 927 grains; but in making an estimate of this kind, much will depend upon the degree to which respiration has been carried. In three cases, in which the children lived half an hour, six hours, and twenty-four hours respectively, the process had been so imperfectly performed, that the lungs varied but little in weight from the average before respiration. ("G. H. Rep." No. V.) The truth is, we cannot compare the lungs of children as to weight, by the *time* which they may have survived birth, but rather by the *degree* to which the lungs have been penetrated by air. Another circumstance must also be considered in basing an opinion on the absolute weight of the lungs. Although there does not appear to be any strict normal relation between the weights of the body and

lungs in new-born children, yet it is certain that in the bodies of children of unusual weight, the lungs will be found much heavier than the average, whether the child has breathed or not. The body may vary from six to eighteen pounds; the lungs under these circumstances will also differ in weight.

The healthy lungs of mature new-born children, become heavier after respiration, and according to its degree; and where a deviation from this rule is observed, it may probably be explained by the circumstance that the lungs of an immature, have been compared with those of a mature child—the lungs of an undeveloped twin with those of one not a twin, or the lungs of one which has breathed imperfectly with those of another in which respiration has become well established. The following table represents the weight of the lungs, in four cases: it will show how much the organs are liable to vary in weight after birth, according to the *degree* of respiration:—

Case 1.	Born dead	Weight, 687 grs.
2.	Lived 6 hours	" 774
3.	Lived 24 hours	" 675
4.	Lived 9 hours	" 851

Relying upon the mere weight of the lungs, it might be inferred from this table that the organs would weigh less in a child which had survived its birth twenty-four hours, than in another which had been born dead, and that there would be very little difference in the weight, whether the child lived six hours or nine days; but when it is stated that in Case 3 the lungs had every fœtal character possessed by those in Case 1, and that in Case 4 respiration had been obviously very imperfectly performed, the difficulty is removed. Such cases should rather be compared with the lungs in the fœtal than in the respired state. They merely show what is very well known to, and admitted by all medical jurists, that there are some instances in which the fact of respiration cannot be determined by the application of the static, or any other test to the lungs, simply because they contain no air. Increased weight, therefore, is only one among several circumstances to which a medical jurist should attend.

Great weight of the lungs can obviously furnish no proof of respiration, unless this is accompanied by the other physical changes indicative of the process; as, for example, increase in volume from the presence of air, crepitation, and the detection of air-cells by the microscope. If the lungs are heavy, and at the same time contain little or no air, the increase of weight must depend upon disease or other abnormal causes—not upon respiration. In one case which I had to examine the lungs were large, and weighed upwards of 1200 grains. They contained no air; when divided into thirty pieces, not one portion floated, nor could any air be seen on the closest examination. It was therefore clearly impossible to ascribe a weight so much above the average to the effects of respiration. On the other hand, in a case communicated to me by Mr. Cann of Dawlish, the lungs of a new-born child apparently full-grown, although fully distended with air, weighed only 626 grains. In this case the body of the child

weighed only six pounds, and a quantity of blood had no doubt escaped from the lungs, owing to the pulmonary vessels not having been tied before their removal from the chest. It must not be forgotten that all the physical characters presented by lungs that have respired are liable to certain fallacies; but, as in the evidence derived from tests used in poisoning, these may be removed, or the force of the objection diminished, by not basing an opinion on one or two conditions only. We should take the whole combined; for it would be as wrong to regard great weight in the lungs *taken alone* as an absolute proof of respiration, as it would be to draw the same inference from a mere change in the color, volume, or consistency of the organs.

M. Ploucquet proposed to determine whether the act of respiration had taken place or not by a comparison of the absolute weight of the lungs with the weight of the body of a child. This, which has been called the *test of Ploucquet*, is based on the fallacy that there is an invariable relation between the weights of the lungs and bodies of new-born children. No such relation exists, and this method of arriving at a solution of the question of respiration, has been abandoned by all medical jurists.

The Specific Gravity of the Lungs.—The specific gravity of the lungs is greater before than after respiration; for although the organs become absolutely heavier by the establishment of the process, this is owing, not to the air, but to the additional quantity of blood received into them. The air thus received so increases the volume of the lungs as to more than counteract the additional weight derived from the blood, and thus apparently to diminish their specific gravity. Under these circumstances they readily float on water. From several experiments, I have found that the specific gravity of the lungs before respiration, *i. e.* in the fœtal condition, varies from 1.04 to 1.05. They are about one-twentieth part heavier than their bulk of water. After respiration, the specific gravity of the lungs with the air contained in them, I found in one experiment to be 0.94; *i. e.* the organs were about one-seventeenth part lighter than their bulk of water. The introduction of a small quantity of air will render the lungs buoyant in water, and an alteration of the volume sufficient for this purpose, would not be perceptible to the eye. It will be understood that the specific gravity of the substance of the lungs is unchanged; the organs are rendered only apparently lighter by the air contained in their cells, on the same principle as a bladder filled with air. Hence it follows that the apparent diminution of specific gravity will take place whether the air is derived from respiration, artificial inflation, or putrefaction. It is on this property of the lungs that the application of what is termed the *hydrostatic test*, or the *docimasia pulmonaris*, is founded—a subject which may be appropriately considered in another chapter.

Conclusions.—The general conclusions which may be drawn from the contents of this chapter are:—

1. That a child may be born alive and be criminally destroyed before it has breathed.

2. That the presence of any marks indicative of putrefaction in the uterus proves that the child must have come into the world dead.

3. That there are no certain medical signs by which a child which has not breathed can be proved to have been living when it was maltreated.

4. That a new-born child may be destroyed by the prevention of respiration during delivery.

5. That by taking together the color, volume, consistency, absolute weight, and buoyancy of the lungs we may be able to draw an inference whether the child has or has not breathed.

6. That the lungs increase in weight according to the degree to which respiration is established, and not necessarily according to the period which the child has survived birth.

7. That no reliance can be placed upon the test of Ploucquet or the proportionate weight of the lungs to the body.

CHAPTER XLVI.

THE HYDROSTATIC TEST.—SINKING OF THE LUNGS FROM DISEASE OR ATELECTASIS.—LIFE WITH PERFECT ATELECTASIS OR ENTIRE ABSENCE OF AIR FROM THE LUNGS.—ERRONEOUS MEDICAL INFERENCE FROM SINKING OF THE LUNGS.—FLOATING OF THE LUNGS FROM PUTREFACTION.—EFFECTS OF PUTREFACTION ON THE LUNGS.

The Hydrostatic Test.—The mode of employing this test is extremely simple. Having removed the lungs from the chest, they should be placed, still connected with the air-tubes, upon the surface of distilled or river water. If they sink, it should be noted whether the sinking takes place rapidly or slowly. If they both sink, the two lungs should be tried separately; for it is sometimes found that one, commonly the right, will float, while the other will sink. Supposing that both lungs sink, it will then be proper to divide each into twelve or fifteen pieces, and place these pieces separately on water. If, after this, they all sink, the inference is, that although the child may have lived and survived its birth, *there is no evidence of its having breathed.* On the other hand, the organs when placed on water may float; it should then be noticed whether they float high above the surface, or at or below the level of the water; sometimes they indifferently float or sink. These differences will lead to a conclusion respecting the degree to which respiration has taken place. It will now be proper to separate the lungs, and determine whether the buoyancy is due to one or both. Each lung should be divided, as before, and each piece separately tried. If all the pieces float, even after firm compression, we have good evidence, cæteris paribus, that respiration has been very perfectly performed. Should any of the divided portions sink in water, either before or after com-

pression, our opinion should be modified accordingly. Some have recommended that the lungs should be placed on water with the heart and thymus gland attached; but there appears to be no good reason for this, since it is as easy to form an opinion of the degree of buoyancy possessed by the lungs, from the readiness with which they float, as by observing whether or not they have the power to support these two organs.

With regard to the inference derivable from the use of this test, it should be observed that the floating of the lungs in water is not, as it is often incorrectly represented to be, a proof that a child has been *born alive;* nor is the fact of their sinking in water any proof that a child was *born dead.* The floating, under the limitations to be described, proves only that a child has *breathed*, the sinking, either that it has *not breathed*, or breathed but imperfectly. The fact of a child having been *born* living or dead, has, strictly speaking, no relation to the employment of the hydrostatic test. There are cases of infanticide which may be readily established without resorting to this test, and others which cannot be proved by its use; all that the law requires is proof that a child has been born living; and whether this proof be furnished by the state of the lungs through the hydrostatic test, or in any other manner, is of no moment. The signs of life are commonly sought for in the lungs, because it is in these organs that the changes produced by a new state of existence are most distinctly perceived; but this examination may be dispensed with when the woman confesses that the child was born alive; when others have seen it manifest life by motion or otherwise after its birth; or, lastly, in cases where, without being seen, it has been heard to cry. The crying of a child has been admitted as evidence of live birth on several trials for infanticide; although, as it is elsewhere stated, a child may utter a cry and die before its body is entirely born. Among the *objections* which have been urged to the employment of the hydrostatic test, we have first to consider those which concern the sinking of the lungs in water.

Sinking of the Lungs from Disease or Atelectasis.—It is said that the hydrostatic test cannot show whether a child has or has not survived its birth, because the lungs of children that have lived for a considerable period have been observed to sink entirely in water. In some instances this may depend on disease, tending to consolidate the air-cells, as *hepatization* or *scirrhus*—in others, on *œdema* or *congestion:* but these cases can create no difficulty, since the cause of the lungs sinking in water, would be at once obvious on examination. The hepatized portion of lung may be known by the firmness with which it resists cutting with a knife, as also by the fact that it is impossible to distend it artificially with air. On the other hand, there are cases in which the lungs appear healthy and unaffected: all that we can perceive is, that they retain their fœtal condition. This is a very different state from that of hepatization, because the lungs may, in this case, be made to receive air by artificial inflation. It is remarkable that life should continue for many hours, and sometimes even for days, under such a condition; but the occasional exist-

ence of this state of the lungs in a living child is placed beyond all dispute; the explanation of the causes upon which it depends—how it is that a child may live for hours or days, and no signs of respiration be discovered in its body after death, is, however, involved in difficulty. The lungs appear to be simply unexpanded, or to retain their fœtal condition; a state to which the name of *atelectasis* has been given. This condition may be found in the whole or in a part of the organs.

Dr. Albert met with a case, in which a child died *thirty-six hours* after its birth, having been attacked by convulsions at intervals during that time. On inspection the whole of the right, and the lower portion of the left lung were found to be in their fœtal condition, and they immediately sank when immersed in water. There was no diseased appearance in the organs, and the undistended portions were easily filled by blowing air into them. (Henke's "Zeitschrift," 1837, vol. ii. p. 422.) M. Dépaul found that in many cases in which children had died suddenly after breathing for several hours or days, there was no other morbid appearance to be perceived than an unexpanded condition of a large portion of the lungs. ("Med. Gaz.," vol. xxxix. p. 283.)

It is quite necessary for a medical jurist to be aware that the state of the lungs which is here called *atelectasis*, is by no means unfrequent among new-born children, although attention has been only of late years drawn to the subject. When no portion of air is found in the lungs of a child, there is no test by which such a case can be distinguished from one in which the child has come into the world dead. These cases of atelectasis are ordinarily set down as exceptions to a general rule; but I believe they are more common than some medical jurists are inclined to admit. In examining the body of a child, the history of which is unknown, it is proper that the possible occurrence of such cases should be well borne in mind. It appears to me not improbable that many such come yearly before coroners in this country, and that they are dismissed as cases of still-born children, notwithstanding that marks of violence are often found upon the bodies. If, as it has been already observed, the lungs sink in water, this fact alone is commonly, although improperly, regarded as sufficient evidence of still-birth. This is assuredly putting the most humane interpretation on the circumstances, and so far the result is not to be objected to; but we should take care, in carrying out this principle, that we do not throw obstacles in the way of a subsequent judicial inquiry, and lead to the concealment of crime. Professor Bernt met with an instance in which a seven-months' child died *two hours* after birth; and when its lungs were divided and placed in water, every portion sank. Remer has reported another, in which the lungs sank in water, both entire, as well as when divided, although the child had survived its birth at least *four days*. (Henke, "Lehrbuch der G. M.," p. 374.) In this case the navel-string separated naturally before death. Orfila found, in a child which had lived *eleven hours*, every portion of the lungs when divided, to sink on immersion. In three other instances, in which the

children survived birth four, six, and ten hours, the lungs also sank when divided; two of these were mature. ("Méd. Lég.," vol. i. p. 375.)

Dr. Vernon attended a healthy woman, who was delivered of a child at about the *sixth month* of her pregnancy. The child was born before his arrival, and he heard it crying strongly from under the bed-clothes as he entered the room. After removal from the mother, the child cried at intervals, and it was observed that its chest rose and fell as in ordinary breathing. It lived five hours, and it then appeared to die from feebleness and exhaustion. It was a female child, and very small; the body weighed 2 lbs. 13 oz., and its length was $12\frac{3}{4}$ inches; the eyelids were adherent. The lungs were of a purplish-red color, and slightly overlapped the bag of the heart: they sank in water both entire and when divided into small pieces; they were not crepitant, and broke down under firm compression: there was no appearance of air-cells in a section of the lungs when examined by the microscope. The ductus arteriosus and foramen ovale were in their fœtal state. ("Lancet," Feb. 3, 1855, p. 121.) A still more remarkable case recently occurred to Prof. Donders of Utretch. (Report by Dr. Moore, "Dublin Medical Press," Nov. 22, 1865, p. 456.) The body of the child was sixteen inches in length, and weighed nearly five pounds. It was probably a seven months' child. The lungs were of a brown color, and sank in water entire and when divided. There was no crepitation, and on pressure only a reddish fluid without air escaped. The bladder was empty: there was no food in the stomach, but there was meconium in the large intestine. From this state of facts, Prof. Donders concluded that the child was immature—still-born—only a short time dead, and remaining in the uterus only a short time after death. It transpired, however, that the child had been born alive, had survived its birth twelve hours, and had cried distinctly after it was born. As the lungs could be readily inflated, and as the child had cried, he concluded that air had been received into the lungs, and had been again slowly expelled, the child dying in a kind of asphyxiated state. I may add to these instances two which have occurred under my own observation. In one, the case of a mature male child, the lungs sank in water, although the child had survived birth for a period of *six hours*. In the other, the case of a female twin, the child survived *twenty-four hours*: and after death the lungs were divided into thirty pieces; but not a single piece floated; showing therefore that, although life had been thus protracted, not one-thirtieth part of the structure of the lungs had received from respiration sufficient air to render it buoyant. ("Guy's Hospital Reports," No. 5, p. 355.) In the latter instance no particular remark was made during life respecting the breathing of the child.

These cases show most clearly that buoyancy of the lungs is not a necessary consequence of a child having lived and breathed for some time after birth. Probably, had these cases called for medico-legal inquiry, the lungs would have been cut to pieces; the sinking of the divided pieces in water, either before or after compression,

would have been set down as negativing the act of respiration, and, unless other strong evidence had been forthcoming, it would have been asserted that the children had been born dead. Here, again, we perceive the necessity of not hastily assuming that a child has been *born dead*, because its lungs *sink* in water. There may be no good medical evidence of such a child having lived after birth, but assuredly the mere sinking does not warrant the common and positive dictum, that the child was necessarily dead when born; it would be as reasonable to pronounce, in a question of poisoning, that the fact of an individual having died from poison was negatived by the non-discovery of a poisonous substance in the stomach of the deceased.

It must be apparent, on reflection, that cases of this description are beyond the reach of the hydrostatic as well as of all other tests applied to the respiratory organs; because the lungs do not receive and retain a sufficient quantity of air to give buoyancy after death, although the children may have lived some hours. The hydrostatic test is no more capable of showing that such children as these have lived, than it is of indicating from what cause they have died. Facts of this kind demonstrate that a passive existence may be for some time maintained under a state of the respiratory process not to be discovered after death. In the opinion of some, these cases form a serious objection to the hydrostatic test; but it is difficult to understand how they can affect its general application—or why, because signs of respiration do not always exist in the lungs of children that have lived, we are not to rely upon them when they are actually found. These singular instances prove that we are greatly in want of some fact to indicate life after birth, *when the signs of respiration are absent.* Until we discover this we must, of course, make the best use of that knowledge which lies at our disposal; taking care to apply it to those cases alone to which experience shows it to be safely adapted. In the mean time, the common inference that a child has been born dead because its lungs sink in water, is never likely to implicate an innocent party; it can only operate by sometimes leading to the liberation of the guilty.

It has been recommended that medical jurists should consider as *dead* every child that has not breathed, *i. e. whose lungs sink in water;* but they who gave this advice at the same time admit that children may come into the world living without breathing, and the law holds, under the decision of its expounders, that respiration is only *one*, and not an exclusive, proof of life. In order to establish life, or even live birth, respiration need not always be proved, either in civil or criminal cases. A medical jurist would, therefore, be no more justified in asserting that all such children were necessarily born dead, than that they were born living: and in stating what is the plain and obvious truth, it is not possible that his statement can ever be the means of involving an innocent person. It is certain, however, in departing from the truth and stating what is contrary to well-known facts, that when the lungs of a child sink in water, it is safe and just to consider such child as having been born *dead*,

he is incurring the risk of exculpating a really guilty person; for it cannot be too strongly borne in mind, that a woman is not now charged with murder, merely because the lungs of her child float or sink in water, but because there are upon its body marks of violent injuries apparently sufficient to account for the death of a new-born child, or there are strong moral presumptions of her guilt.

Floating of the Lungs from other causes than Respiration.—Another series of objections has been urged to the hydrostatic test, based on the fact that the lungs may receive air and acquire buoyancy from other causes than respiration. These causes are two: putrefaction and artificial inflation. *Putrefaction.*—The lungs of a still-born child, when allowed to remain in the chest, are slow in undergoing putrefaction; but, nevertheless, they sooner or later acquire sufficient air to render them buoyant in water. When the lungs are putrefied, this will be determined, in general, by putrefaction having extended throughout all the soft parts of the body. The organs, according to the degree of putrefaction, will be found soft, of a dark green or brown color, and of a highly offensive odor; the serous membrane covering the surface will be raised in large visible bladders, from which the air may be forced out by very moderate compression. It has been remarked that, under the same conditions, gaseous putrefaction takes place as rapidly in the liver, heart, and thymus-gland of a new-born child, as in the lungs; we should, therefore, notice the general state of the body. The distension of the lungs with gas from putrefaction cannot be easily overlooked or mistaken for the air of respiration. The answer to any objection founded on the putrefied state of these organs, must at once suggest itself. It is impossible that any well-informed medical witness can expect to obtain satisfactory evidence from experiments on lungs in such a condition. He should abandon the case and declare that in regard to the question of respiration, medical evidence cannot establish either the affirmative or the negative. The fact of his not being able to give the evidence required, cannot be imputed as a matter of blame to him or ascribed to any deficiencies in the hydrostatic test; this is due to purely accidental circumstances.

In a case reported by Henke, the lungs and other organs in the body of a child were found in an advanced state of putrefaction. A medical witness gave an opinion that the child was born dead, but the prisoner afterwards confessed that it had been born living. The medical opinion could have been no more than a conjecture, the condition of the body not allowing any correct conclusion to be drawn. This fact shows that it is always better to leave a doubtful case as we find it, than to express a positive opinion that the child has been born living or dead. If on these occasions a witness were simply to assure a jury, that medical evidence could not solve the question whether the child had lived or not—if he were to assert, what is really the fact, that his experiments would not allow him to say whether the child had or had not breathed—it is certain that no innocent person would ever be convicted or a guilty person acquitted, upon his evidence. It is for a jury only to judge of guilt

from *all* the circumstances laid before them; but it is assuredly not for a medical witness to prevent further investigation, and put an end to the case, when there is good reason for doubt. It is his duty to state that doubt, and leave the decision of guilt or innocence in the hands of the court.

Conclusions.—The general conclusions which may be drawn respecting the application of the hydrostatic test in cases of infanticide, are the following:—

1. That the hydrostatic test can only show whether a child has or has not breathed—it does not enable us to determine whether a child has been born living or dead.
2. That the lungs of children that have lived after birth may *sink* in water, owing to their not having received air, or to their being in a diseased condition.
3. That a child may live for some time when only a portion of the lungs has been penetrated by air.
4. That a child may survive birth even for twenty-four hours, when no part of its lungs has been penetrated by air.
5. Hence the sinking of the lungs (whether whole or divided) in water is not a proof that a child has been *born dead.*
6. That the lungs of children which have not breathed and have been born dead, may float on water from putrefaction.
7. That the lungs as situated in the chest undergo putrefaction very slowly—that if but slightly putrefied, the gases may be easily forced out by compression, and if much putrefied, either the case must be abandoned, or other sources of evidence sought for.

CHAPTER XLVII.

FLOATING OF THE LUNGS FROM ARTIFICIAL INFLATION.—INFLATION NOT DISTINGUISHABLE FROM IMPERFECT RESPIRATION.—RESULTS OF COMPRESSION.—IMPROPER OBJECTIONS TO THE HYDROSTATIC TEST.—RESPIRATION BEFORE BIRTH.—RESPIRATION A SIGN OF LIFE, NOT OF LIVE BIRTH.—GENERAL CONCLUSIONS.

Artificial Inflation.—It has been alleged that the lungs of a still-born child may be made to assume by artificial inflation, *i. e.* by blowing air into them, all the characters assigned to those which have undergone respiration. Thus, it is said, a child may not have breathed, and yet the application of the hydrostatic test would in such a case lead to the inference that it had. It will be seen that the force of this objection goes to attack directly the inference derivable from the discovery of air in the lungs. There is only one form under which this objection can be admitted, namely, as it applies to lungs which have been inflated while *lying in the cavity of the chest.* Any experiments performed on them after their removal from this cavity,

can have no practical bearing, since in a case of infanticide we have to consider only the degree to which the lungs may be distended with air by a person who is fairly endeavoring to resuscitate a still-born child. Assuming that the experiment has been successfully performed, and that the lungs have been artificially inflated, they would resemble in their partial distension with air and other physical characters, those of children which had breathed imperfectly. Like them, they may float on water; but on cutting them into pieces, some of these would be found to sink. If the pieces which float are firmly compressed either by means of a folded cloth or between the fingers, they will lose their air and sink. When this pressure is produced under water, it will be seen that bubbles of air escape, but mere pressure with the fingers will not in general suffice to expel the whole. The same result is obtained when the divided portions of lungs which have breathed imperfectly are submitted to pressure. If, however, the act of breathing has been perfectly performed, and the air-cells are well filled, the air cannot be expelled by pressure or by any force short of the destruction of the substance of the lungs. This difference in the effect of pressure has been hitherto regarded as a criterion to distinguish lungs that have fully breathed from those which have been simply inflated; but Dr. Hicks met with a case which shows that pressure will not always effect the expulsion of air, artificially introduced into the lungs of a child born dead; hence by an exclusive reliance on this method, a medical man might be led to infer that a lung artificially inflated had received air by respiration. Dr. Hicks delivered a woman of a full-grown child; it was still-born, and there was no effort at respiration. An attempt was made to resuscitate the child, but unsuccessfully, by blowing air into the lungs through a catheter. On inspection, the lungs were observed to be of large size, but they did not present the usual appearances of lungs which had breathed. Although about three-fourths of the organs had received air by inflation, they were of a pale-fawn color, like the thymus gland; still the air was contained in the minute air-cells. They floated on water as well as all the pieces (fifteen or sixteen) into which they were divided. When compressed between the fingers under water, small bubbles of air escaped: but no amount of compression short of destroying their structure caused these pieces to sink. A fact of this kind, although perhaps exceptional, shows that the non-expulsion of air from lungs by compression, must not be regarded as an absolute proof of respiration. It must be taken with other circumstances, *e. g.* absolute weight and color, as a fact, to show that the child has either breathed, or has had its lungs perfectly inflated in a *bonâ fide* attempt to restore life after birth, either by the mother or by some person present at the birth. In cases of this kind, the only course left open to a medical witness is, to state that the evidence derived from experiments on the lungs left it uncertain whether the child in question had breathed, or had had its lungs artificially inflated. A jury will then know how to return their verdict; for it must be remembered, they have always circumstances,

as well as medical opinions, to guide their judgment; and it is upon the *whole*, and not upon a part, of the evidence laid before them that their verdict is founded.

In concluding these remarks upon the objections to the hydrostatic test, it may be observed that medical practitioners have differed much at different times in their ideas of what it was fitted to prove. About sixty years ago, it would seem that this test was regarded by some as capable of furnishing evidence of murder! Thus we find Dr. Hunter asking the question, "How far may we conclude that the child was born alive, *and probably murdered by its mother*, if the lungs swim in water?" Later authorities, and, indeed, many in the present day, assert that the test is capable of proving whether a child has been *born alive* or not! From what has already been stated, as well as from the most simple reflection on the circumstances accompanying the birth of a child, I think it must be evident that the hydrostatic test is no more capable of showing whether a child has been *born alive or dead* than it is of proving whether it has been murdered or has died from natural causes. The majority of those who have made experiments on this subject have only pretended to show, by the use of this and other tests, whether or not a child has *breathed;* the tests merely serve to furnish in many cases good proof of life from the state of the lungs; and slight reflection will render it apparent that in no case are they susceptible of doing more. Even here their utility is much restricted by numerous counteracting circumstances, a knowledge of which is essential to him who wishes to make a practical application of them. (See "Edin. Med. and Surg. Jour." vol. 26, p. 365.)

If asked to state in what cases the pulmonary tests are capable of assisting a medical jurist, the answer, it appears to me, would be: 1st. They will clearly show that a new-born child has lived, when, during its life, it has *fully and perfectly breathed.* Cases of this description form a certain number of those which come before our courts of assize. To them the most serious objections are not applicable; and the few which might be made to the medical inferences are not difficult to answer. 2dly. They will allow a witness to say, that the lungs must have received air either by respiration, or by artificial inflation. These are the cases in which a child has died soon after birth, and where the respiratory changes are but imperfectly manifested in the lungs. They probably form a large proportion of those which fall under the jurisdiction of the criminal law. It might be considered, that the qualification in the inference here drawn would neutralize its force; but it must be remembered, that there are few instances of actual and deliberate child-murder wherein artificial inflation could become even a possible defence for an accused person. So unusual is this kind of defence, that among the numerous trials for infanticide which have taken place in this country for many years past, I have not been able to meet with a single instance in which it was alleged, as an objection to the medical evidence derived from the buoyancy of the lungs, that the prisoner had inflated them in order to resuscitate her child. The reason is obvious; had such

a defence been attempted, the whole of the circumstantial evidence would at once have set it aside. When, in the suspected murder of an adult, a medical man swears that a fatal wound was such that the deceased might have inflicted it on himself, or that the prisoner might have produced it, he is placing the jury in a position very similar to that in which he places them in a case of child-murder, when he says that the child might have breathed, or its lungs might have been artificially inflated. How would a jury decide in the two cases? Assuredly, by connecting certain facts with which a medical witness is not concerned, but which may, in their opinion, satisfactorily supply the place of what is deficient in his evidence. It is not for him to speculate on the probabilities of respiration, or of artificial inflation; but it is for them to consider whether the accused was or was not likely, under the particular circumstances of the case, to have resorted to an experiment of this nature. It has been suggested that some person might inflate the lungs of a dead child, in order to raise a charge of murder against its mother; but this suggestion presupposes, on the part of a criminal, a profound knowledge of the difficulties of medical jurisprudence: and even then the question of *murder* does not depend merely on the presence of air in the lungs. Such a case is very unlikely to present itself; indeed, its occurrence is no more probable than that in poisoning it should be considered a good defence that some person might have introduced poison into the body by injections after death. The circumstances of the case will commonly furnish a sufficient answer to such hypothetical views.

The hydrostatic test ought not, therefore, to be lightly condemned or rejected upon a speculative objection, which, in nine-tenths of the cases of child murder, could not possibly exist. Let it be granted to the fullest extent, that a conscientious medical jurist cannot always draw a positive distinction between the effects of respiration and artificial inflation on the lungs; still a jury may be in a situation to relieve him from this difficulty. In short, it would be as reasonable to contend that all persons charged with murder should be acquitted because homicidal are not always to be distinguished from suicidal wounds, as to argue that all cases of infanticide should be abandoned because these two conditions are not distinguishable by any certain medical signs. If juries do frequently dismiss such cases, it is, I apprehend, to be ascribed rather to their great unwillingness to become the means of administering what they consider to be severe laws, than to their want of power to balance and decide on the probabilities laid before them. If the pulmonary tests were wholly set aside, it is easy to conceive what would be the consequences. Let us suppose that a new-born child is found, under suspicious circumstances, with its throat cut; we are called upon to admit that it is impossible for medical evidence to establish whether the child has lived or not, and therefore we are to decline making an inspection of its body. But this would be the same as declaring that child-murder could never be proved against an accused party, and that new-born children might henceforth be destroyed with im-

punity! It appears to me that conduct of this kind on the part of a medical witness, would be wholly unwarrantable; for we may sometimes acquire, by an inspection, as great a certainty of respiration having been performed, and therefore of a child having lived, as of any other fact of a medico-legal nature. Cases of poisoning often give rise to greater difficulties to a medical jurist; as where, for example, he attempts to found his opinion of the cause of death on symptoms alone or on appearances in the dead body. But we may put the question in this light. In the body of a healthy full-grown child, which has but recently died, we find the lungs filling the cavity of the chest, of a light red color, spongy, crepitant beneath the finger, weighing at least two ounces, and, when divided into numerous pieces, each piece floating on water, even after violent compression. Is it possible in such a case to doubt that respiration has been performed? If there is no certainty here, it appears to me that medical experience is but little fitted in any case to guide us in our inquiries. It would be difficult to point out an instance in which an affirmative medical opinion would be more surely warranted by the data upon which it was founded.

Respiration Before or During Birth.—It has been already stated that the pulmonary tests are fitted to prove only whether a child has or has not *lived to breathe.* Neither the hydrostatic nor any other test can positively show that the body of a child was entirely *born alive* when the act of breathing was performed. As this is a subject which generally gives rise to some discussion in cases of child-murder, I shall here make a few remarks on it. 1st. Respiration may be performed while the child is in the uterus, after the rupture of the membranes—the mouth of the child being at the os uteri. This is what is termed *vagitus uterinus;* its occurrence, although extremely rare, seems to me to rest upon undisputed authority. 2dly. A child may breathe while its head is in the vagina either during a presentation of the head or of the breech. This has been termed *vagitus vaginalis.* It is not very common, but it must be set down as a possible occurrence. 3dly. A child may breathe while its head is protruding from the outlet; in this position respiration may be as completely set up in a few moments by its crying, as we find it in some children that have actually been born, and have survived their birth for several hours. This is the most usual form of respiration before birth. In the *vagitus uterinus* or *vaginalis* the lungs receive but a very small quantity of air; in respiration after protrusion of the head the lungs may be sometimes found moderately well filled, although never, perhaps, possessing all the characteristic properties of those which have fully respired. The well-known occurrence of respiration under either of these three conditions, strikingly displays the fallacy of making this process, as some have done, the certain boundary of extra-uterine life. A child may breathe in the uterus or vagina, or with its head at the outlet, and die before its body is born; the discovery of its having respired would not, therefore, be any sort of proof of its having enjoyed what has been termed "extra-uterine life." (For a well-marked case of this kind, see "Med. Gaz."

vol. 38, p. 394; and another, communicated to me by Dr. Crothers, of Coy, will be found in "Guy's Hospital Reports," October, 1850, p. 231.) The death of a child which has breathed in the uterus or vagina, from natural causes before its entire birth, is a possible occurrence; but its death from natural causes before birth, after it has breathed by the protrusion of its head from the outlet, is an unusual event. All that we can say is—it may take place; but death under these circumstances would be the exception to a very general rule. Oberkamp states that, in four successive deliveries of the same woman, the children breathed during delivery, but died before they were born.

Respiration a Sign of Life, not of Live Birth.—The hydrostatic test is only capable of determining that *respiration has taken place;* it cannot show whether this process was established during birth or afterwards. The fact of a child having the power of breathing before it is entirely born, does not therefore constitute the smallest objection to its employment; although upon this ground, we find the use of it in any case denounced by many eminent members of the medical and legal professions. Thus, Archbold says, "Very little confidence is placed in this test as to the lungs floating, particularly if the child were dead any length of time before the experiment was made." ("Criminal Pleading," p. 367.) Mathews speaks of the test as being "quite exploded" ("Digest," p. 251); and Jervis makes the same remark ("On Coroners," p. 127). It is obvious that most members of the law who have treated this subject have adopted, without sufficient examination, the statements of Dr. William Hunter. This author observes: "A child will commonly breathe as soon as its mouth is born or protruded from the mother; and in that case may lose its life before its body be born, especially when there happens to be a considerable interval between what we may call the birth of the child's head and the protrusion of its body. And if this may happen where the best assistance is at hand, it is still more likely to happen when there is none, that is, where the woman is delivered by herself." ("On the Uncertainty of the Signs of Murder in the Case of Bastard Children," p. 33.)

Dr. Hunter here exposes, in plain language, the fallacy of trusting to signs of respiration alone as evidence of a child having been *born* alive. The truth of his remarks is, in the present day, generally admitted; and if, among medico-legal writers, we find some still treating of respiration as a certain proof of live birth, it is from their not having sufficiently considered the probability of a child breathing and dying before its body is entirely extruded.

Conclusions.—The general conclusions respecting the employment of the hydrostatic test, to be drawn from the contents of this chapter, are:—

1. That the artificial inflation of the lungs of a child born dead will cause them to float in water.

2. That lungs artificially inflated while in the chest resemble those organs in which respiration has been only imperfectly established.

3. That in cases of inflation of the lungs in the chest, the air may

be generally expelled from the divided portions of lung by firm compression so as to cause them to sink.

4. That the same result occurs with lungs in which respiration has been imperfectly established.

5. That when lungs have undergone perfect respiration, the air cannot be expelled by compression of the divided parts, so as to cause them to sink.

6. That the artificial inflation of fœtal lungs causes no alteration of weight, and as the weight increases in proportion to the degree of respiration, so in healthy lungs, with great buoyancy, there should be great weight if the air has been derived from respiration.

7. That we should base our judgment of a child having breathed, upon great weight and great buoyancy of the lungs combined, that the one condition without the other is open to the objection, that the air may not have been derived from respiration.

8. That a floating of the lungs in water proves, cæteris paribus, that a child has breathed either at, during, or after birth: it does not prove that a child was born alive, or that it has died a violent death.

9. That the sinking of the lungs, as a result of the expulsion of air from them by compression, does not necessarily prove that the child was born dead. It merely proves that the air contained in them was derived either from artificial inflation, or from the imperfect establishment of the respiratory process.

10. That the hydrostatic test is not applicable to determine the fact of respiration or non-respiration in all cases of alleged child-murder; but that, with ordinary precautions, it may be safely employed in the majority of such cases.

11. That a child may breathe before, during, or after birth, but the hydrostatic test will not enable us to say, in the greater number of cases, at which of these periods the act of respiration was performed.

12. That respiration is a sign of life, and not necessarily of live birth.

13. Hence medical evidence is required to show whether a child breathed *after* it was entirely born, and whether the act of violence which caused its death was applied to it while so breathing.

These conclusions are here expressed with brevity. Some of them may require qualification; but for the circumstances which qualify them, the reader is referred to the contents of the chapter.

CHAPTER XLVIII.

ON THE PROOFS OF A CHILD HAVING BEEN BORN ALIVE.—EVIDENCE FROM RESPIRATION.—FROM MARKS OF VIOLENCE.—FROM NATURAL CHANGES IN THE FŒTAL VESSELS.—FROM THE DISCOVERY OF FOOD IN THE STOMACH.—GENERAL CONCLUSIONS.

ON a trial for child-murder, the important medical question has hitherto been: Was the child completely born alive? The interpretation set upon these words by all the judges, was that the whole body of a child should be entirely delivered from the body of the mother before the question of its death from violence could be entertained. Some learned judges even held that a child was not legally born alive until it was severed from the body of the mother. In cases in which death had obviously taken place from criminal violence, the medical witness was suddenly stopped in his evidence by being asked for some infallible proof of live birth in a *legal* sense. As a medical man, not present at the delivery could rarely be in a condition to offer such proof, the case broke down, and the accused was acquitted of the charge of murder. If a medical witness ventured to say that he formed his opinion of live birth from the presence of air in the lungs, and the usual appearances produced in these organs by the act of breathing, he was immediately met with the objection that a child might breathe during the act of birth, and die before its body was born, and yet the appearances would be the same. To this there was generally no reply; but every medical man could perceive that an exceptional condition was thus strained into a rule, simply to procure an acquittal on a capital charge. Some children are wilfully injured and destroyed during delivery, but the greater number are, no doubt, destroyed soon after they have been entirely born; still there is nothing of a medical nature to distinguish one set of cases from another. In each the child may have breathed, and the lungs may contain air; while, at the same time, the fatal violence—whether indicated by wounds, fractures, burns, or marks of strangulation on the neck—would be the same; there would be no medical difference, and it is obvious, from the nature of things, there could not be any appearances by which the partially born could be distinguished from the completely born child. Medical evidence went, on these occasions, as far as it could be reasonably carried. It established two facts: 1, that the child was living at or about the time of its birth, and when the violence was inflicted upon it; and, 2, that the violence itself was sufficient to cause death, and was, in fact, the cause of death.

The Capital Punishment Commission, whose attention had been especially directed to the frequent failures of justice in trials for infanticide, have, in their recent Report (Dec. 1865), made some important suggestions, which, if carried into legislation, will relieve medical evidence of some of those insuperable difficulties which it has hitherto had to encounter in cases of infanticide, and at the same time remove that which has hitherto been a stigma upon our criminal law. I quote the following passages from this report:—

"The crime of infanticide, as distinguished from murder in general, is not known to the English law. The moment a child is born alive, it is as much under the protection of the law as an adult.

"14. We have considered whether the failure of justice, which undoubtedly often occurs in such cases, may not be obviated by some change in the law which shall add to the protection of newborn children. The principal obstacle which now prevents the due enforcement of the law, is the extreme difficulty of giving positive proof that the child alleged to have been murdered was completely born alive.

"15. We have given this important and difficult subject our serious attention, and we have arrived at the opinion that an Act should be passed making it an offence, punishable with penal servitude or imprisonment at the discretion of the court, unlawfully and maliciously to inflict grievous bodily harm or serious injury upon a child during its birth or within seven days afterwards, in case such child has subsequently died. No proof that the child was completely born alive should be required. With respect to the offence of concealment of birth, we think that no person should be liable to be convicted of such offence upon an indictment for murder, but should be tried upon a separate indictment. The accused should not be entitled to be acquitted in either of the above cases if it should be proved on the trial that the offence amounted to murder or manslaughter."

It would appear from these paragraphs that provided a child has died from injuries unlawfully inflicted upon it either during its birth or within seven days afterwards, the person guilty of such violence may be convicted of a statutable offence involving a severe punishment. It will not be necessary that the medical evidence should prove that the child was completely born alive, or severed from the body of the mother at the time that the violence was inflicted upon it. This will not, however, alter the state of the law, or affect criminal responsibility, when the facts establish an act of murder or manslaughter. The proposed change is intended to meet the two medical difficulties of proof of complete birth and of violence inflicted during or after birth. The operation of such an Act will be practically to repeal the punishment of death in cases of infanticide, because, judging from past experience, the greater number of these charges will resolve themselves into the statutable offence punishable with penal servitude or imprisonment. Under the proposed new system of legislation, the proof of entire or complete birth would be no longer necessary; but proof of live birth is not dis-

pensed with when the charge is one of murder or manslaughter. Two sets of cases may present themselves for medical evidence: 1, those in which violence is applied to the child during birth, but the child is born alive, and dies from the violence either immediately or within a few days; and, 2, those in which the violence is applied, and the child dies from its effects, before it is born, or in the act of being born; as in that form of infanticide in which a woman is delivered in a bath, and the child, when born, dies from the prevention of respiration, or where a child is deliberately strangled or suffocated when its head presents. In the second set of cases, there can be no medical proof of live birth; hence, these are likely to be treated as cases of still-birth. The complete destruction of children during birth by wilful violence, can apparently neither be defined nor punished as a legal offence. This exception in the proposed legislation on infanticide obviously depends on the impossibility of distinguishing a child which has died from natural causes in the act of birth from one which has been destroyed by injuries inflicted during its birth. Marks of violence may be found on the dead bodies of both or neither, but allowing that they are of a fatal character, and that the proof of the exact time of their infliction is unimportant, how is a witness to be in a position to say that the child died from the injuries subsequently to its birth; and yet without proof of this a criminal may escape. The material part of the medical proof, then, on these occasions will be to show to the satisfaction of a court that the injuries did not prove fatal until after the birth of the child. The legal assumption in the defence will be that the child died from them before it was born, and that it came into the world dead. A difficulty of this kind may, however, be removed by the terms of the proposed new statute. One learned judge has strongly expressed his opinion that the wilful destruction of a child during birth, or before it is completely born, should be treated as a distinct offence, and that there should not be an acquittal on the ground that the medical evidence did not prove the child to have been completely born; leaving it to the discretion of the judge to direct a charge of murder to be made.

As the question of live birth may still therefore incidentally arise, it will be necessary to consider the medical facts upon which reliance is placed as furnishing evidence of a child having come into the world living, or of its having been born alive.

Evidence from Respiration.—As a general rule, there will be no perceptible difference in the state of the lungs, whether the act of respiration is performed by a child during birth or after it is born, provided that its death speedily follows its birth. But should we find that this process has been *perfectly established*, *i. e.* that the lungs present all those conditions which have been described as characteristic of full and perfect breathing, there is great reason to presume that the process, even if it had commenced during birth, must have continued after the child was entirely born. This presumption becomes still stronger when the child is immature; for, generally speaking, such children must be born and continue to breathe for

many hours after birth, in order that their lungs should present the characters of complete respiration. The process is seldom so established before birth as to give to these organs a feeling of crepitation under pressure; the existence of this character should, therefore, be sought for. A witness who relied upon it as a conclusive proof of breathing *after* birth, might be asked by counsel, whether it were not possible for some children to remain so long at the outlet with the head protruding, as to render the lungs crepitant from frequent respiration *before* birth. Admitting the bare possibility of this occurrence, he should endeavor to ascertain whether there were any probable cause which could thus have protracted delivery while the head of the child was in this position; as also, what natural cause could have produced its death when its head was protruding and respiration had been so freely performed as to give crepitation to the lungs. The presence or absence of the usual scalp-tumor might throw some light upon the case. If, when present, it did not prove live birth, it might indicate protracted delivery, and show that the child had been recently living. The late Professor Casper, of Berlin, has cut the Gordian knot of this difficulty, by assuming, that breathing before birth takes place only in protracted delivery, in which the assistance of an accoucheur is required. In those cases which are likely to give rise to criminal investigations, he assumes that the birth of the child takes place quickly, and that in rapid delivery the child does not breathe until it is born alive. Hence his conclusion is—if in the body of a child (secretly disposed of) the lungs are found to contain air by the hydrostatic test, this air did not enter the lungs at or before birth but afterwards, and that the child was born alive. ("Gerichtl. Medicin," vol. 1, p. 710.) Such a conclusion is not in accordance with the facts ascertained regarding the act of respiration in new-born children; it may be that they rarely die from natural causes after they have once breathed, but that they can breathe and cry during birth is a fact which cannot be disputed. Further, there is no test known by which air received into the lungs during birth, can be distinguished from that which has entered these organs after the child has been born alive.

Evidence from Marks of Violence.—If marks of violence, apparently inflicted about the same time, are found on different and remote parts of the body, and these marks bear the characters of those produced during life, it is rendered probable that the whole of the body of the child was in the world when they were caused. Marks of severe violence on one part, as the head or breech, would not always justify such a presumption, because it might be fairly objected that they had been unintentionally produced by the woman in her attempts at self-delivery, and yet the child not have been born alive. It would be for a witness to form an opinion from the circumstances accompanying the particular case, whether they had been thus occasioned. From this it will be seen that, in making an examination after death, it is proper that every mark of injury on the body of a child, even if slight, should be noted down. Abrasions

of the skin, burns, and punctures, should be noted, and the throat examined for marks of pressure by a cork or by the fingers.

Evidence from Certain Changes in the Body.—In a child that has been born alive, or has survived its birth for a period of from twelve to twenty-four hours, that portion of the umbilical cord which is contiguous to the abdomen undergoes certain changes; it dries and becomes slowly shrivelled, and in from three to five days it separates from the body with or without cicatrization.

The cord does not separate at the part which is tied, but close to the abdomen. It separates generally within five days, by a process of sloughing, the skin connected with the dead portion of the cord presenting a red line, arising from capillary congestion. During the separation of the navel-string the umbilical vessels are gradually closed. According to Billard, the obliteration of these vessels is effected in a peculiar manner. The calibre diminishes as a result of a concentric thickening of the coats, so that, while the vessel retains its apparent size, its cavity is gradually blocked up. A quill would represent the form of the vessel in the fœtal state, and a tobacco-pipe in the obliterated state. It is only by cutting through the vessel that the degree of obliteration can be determined. The state of the *umbilical cord* has furnished good evidence of live birth, when the other circumstances of the case have yielded no information.

The changes in the umbilical cord, especially those indicative of its separation and cicatrization, clearly prove that a child has survived its birth, whatever may be the results of experiments on the lungs; but the difficulty is, that they require some days for their production, and in practice it is necessary to procure some signs of survivorship of only a few minutes, or at furthest of a few hours. The same remark applies to the *exfoliation of the cuticle*, in a new-born child; such a condition of the skin can rarely be found in cases of infanticide. The absence of meconium from the intestines, and of urine from the bladder, are not proofs of live birth, for these may be discharged during birth, and yet the child not be born alive.

State of the Skin.—In the greater number of new-born children, the skin has a dark-red color, probably owing to the first effect of the atmosphere upon it. Within an hour it begins to get of a lighter red, and so it remains for one or two days. According to Dr. Elsässer, it becomes again darker about the end of the second or on the third day, and is then of a brownish-red color. This lasts for three or four days, unless a yellowness appears from jaundice. It is then more or less yellow. It is about the sixth or seventh day that the skin acquires a reddish-white color such as it afterwards retains. (Henke's "Zeitschrift der S. A." 1842, vol. 2. p. 223.)

Evidence from Changes in the Heart and Fœtal Vessels. Docimasia Circulationis.—It has been supposed that the state of the ductus arteriosus, ductus venosus, and foramen ovale would aid a medical jurist in forming an opinion whether a child had survived its birth. In general, as a result of the establishment of respiration, it is found that the communication between the auricles of the heart by the foramen ovale becomes closed; and that the two vessels or ducts,

after gradually contracting, become obliterated, or are converted into fibrous cords. Whatever may be the conclusions from experiments on the lungs, it has been contended that the closure of the foramen and of these vessels would infallibly indicate that a child had breathed. This inference, however, has been too hastily drawn. Recent researches have shown that there are some serious objections to any conclusions based on the state of these fœtal vessels; their closure, as a natural process, always takes place slowly, and sometimes is not completed until many years after birth. Thus, then, in the generality of cases of infanticide, in which necessarily the child survives but for a short period, no evidence of the fact will be procurable from an examination of the heart and fœtal vessels.

As a general rule, the peculiar parts of the fœtal circulation are rarely obliterated by a normal process before the eighth or tenth day after birth. The obliteration, according to Bernt and Orfila, takes place in the following order: 1. The umbilical arteries; 2. The ductus venosus; 3. The ductus arteriosus; and 4. The foramen ovale. (Orfila, "Méd. Lég." 1848, vol. 2. p. 210.) The circumstances connected with the closure of these fœtal vessels have been statistically investigated by Dr. Elsässer. Among 70 still-born children they were found open in 69. Among 300 children who died soon after birth, 80 out of 108 prematurely born and living from one to eight days, presented all the passages open: 127 out of 192 infants born at the full time had all the passages open, but partly contracted. The ductus arteriosus was open in 55 cases, and completely closed in 10 cases; the ductus venosus was open in 81, and completely closed in 37 cases; while the foramen ovale was open in 47, and completely closed in 18 cases only. These facts, according to Dr. Elsässer, prove that the vessels peculiar to the fœtal circulation remain open as a rule for some time after birth, and that it is not possible to determine accurately, by days, the period of their closure. This physiologist remarked that the closure commenced and was often completed in the ductus venosus, before it manifested itself in the other vessels. The complete closure, in by far the greater number of cases, takes place within the first six weeks after birth, and the instances of obliteration before birth, or before the period mentioned after birth, must be regarded as rare exceptions. ("Med. Times and Gaz." May 21 1853, p. 530.)

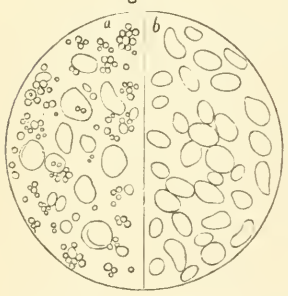
From these facts, the docimasia circulationis may be considered as useless to a medical jurist. It either proves nothing, or it may lead to a fatal error. It is the more necessary to point out the fallacies to which it is liable, because hitherto medical jurists have been disposed to place great reliance upon it, in cases in which medical evidence from the state of the lungs was wanting.

Evidence from the State of the Alimentary Canal.—Good evidence of live birth may be sometimes derived from the discovery of certain liquids or solids in the stomach and intestines, such as blood, milk, or farinaceous or saccharine articles of food; for it is not at all probable that these substances should find their way into the stomach or intestines of a child which was really born dead.

1. *Starch.*—In the case of a new-born child, Dr. Geoghegan dis-

covered, by the application of iodine-water, the presence of farinaceous food in the contents of the stomach; hence the question of live birth was clearly settled in the affirmative. On another occasion Dr. Francis employed this method of testing with satisfactory results, in a case in which the investigation was beset with unusual difficulties. He was required by the coroner to examine the body of a new-born child, found under suspicious circumstances. The examination of the lungs left no doubt that respiration had taken place; and the fact that the child had been born alive was fully established by the discovery in the stomach of a small quantity of farinaceous food. On digesting in distilled water a fragment of the pulp found in this organ, and adding a drop of a solution of iodine, an intense indigo-blue color appeared immediately. The application of this chemical test, therefore, removed any doubts which might have been entertained on the question of live birth. ("Med. Gaz." vol. 37, p. 460.) The quantity of starch present may, however, be too small to produce with water a solution which would be colored by iodine in the manner described. A portion of the contents of the stomach should then be placed on a glass slide, diluted with a little water if viscid, and examined under the microscope with a power of about 300 diameters. The granules (if present) may then be distinctly seen, having the shape peculiar to each variety of starch, and not unfrequently mixed with oil-globules and epithelial scales derived from the mucous membrane. By the addition of strong iodine-water their shape and size will be brought out by the intensely blue color which they acquire. Blue fragments of an irregular shape indicate the presence of bread. The annexed engraving (Fig. 43) represents two varieties of starch, either of which may be found in the stomachs of infants; in *a* the rounded granules of wheat starch are represented, and in *b* the void granules of arrowroot.

Fig. 43.



Granules of wheat-starch. Granules of arrow-root.
Magnified 319 diameters.

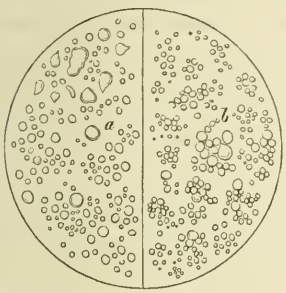
The micrometrical measurements of the granules show, for those of wheat, which are irregularly spherical, diameters varying from 1-9000th to 1-1125th of an inch in size. Many have an average diameter of 1-3000th of an inch. The ovoid granule of arrowroot is 1-900th of an inch in length, and 1-1800th of an inch in width.

2. *Sugar.*—In a case which I was required to examine, the presence of sugar was readily detected in the contents of the stomach by the application of Trommer's test. In order to apply this test, a few drops of a weak solution of sulphate of copper should be added to a portion of the cold concentrated aqueous extract of the contents of the stomach. An excess of a solution of pure potash is then added, and the liquid boiled. If sugar be present, the suboxide of copper is immediately precipitated of a yellowish or reddish color. With

white sugar the same decomposition is effected, but more slowly. If starch only be present, black oxide of copper may be thrown down, but there will be no production of a red precipitate. The formation of the red oxide of copper under these circumstances proves that some saccharine substance is present. In reference to the application of the sugar-test, however, it must be remarked that starch is easily convertible into sugar by a chemical action of saliva or mucus, so that the test may appear to indicate sugar in small quantity, when the result may be really due to the presence of some converted starch.

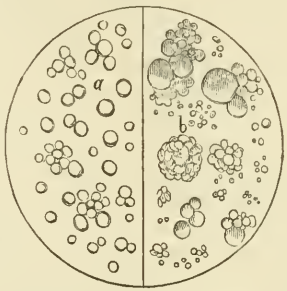
3. *Milk.*—This liquid may be found in the stomach of a new-born

Fig. 44.



Oil-globules of Human Milk. Oil-globules of Cow's Milk.
Magnified 319 diameters.

Fig. 45.



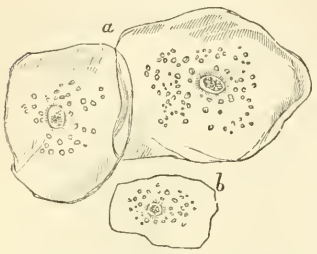
Oil-globules of Human Milk. Colostrum with granular bodies.
Magnified 450 diameters.

child; it may be identified microscopically in the fluids of the stomach by the numerous and well-defined oil-globules which it contains. It is not possible to distinguish human from cow's milk under these circumstances. In both, the globules which are spherical in all aspects, are remarkable for their transparency in the centre, and their dark margin. They vary considerably in size. I have found those of the cow to have by measurement the following diameters: Maximum, 1-2200th of an inch; minimum, 1-18000th; and medium size, 1-4500th of an inch. They are distinguished from blood-corpuscles by their shape and lustre, and from starch granules by the fact that they are not colored or changed by iodine-water. *Colostrum* is the name applied to the milk first secreted after delivery; it contains, in addition to oil-globules, numerous spherical granular bodies (Fig. 45, *b*). When milk is present, *lactine* or sugar of milk is generally found in the contents of the stomach by the appropriate sugar-test (supra). The casein, or solid principle of milk, precipitates oxide of copper from the sulphate; but on adding an excess of a solution of potash, the oxide is redissolved, forming a purple or violet colored solution. It is rapidly coagulated by the digestive principle (pepsine) contained in the gastric juice, so that the casein may be found in small soft masses adhering to the lining membrane of the stomach. It should be observed that albumen forms a deep violet colored solution with sulphate of copper and

potash, but the red suboxide of copper is not precipitated on boiling unless sugar is mixed with it.

4. *Epithelial Scales.*—The epithelial scales commonly found associated with articles of food in the stomach are of various shapes and sizes; they are flat, oval, or rounded, and sometimes polygonal. They are nucleated, and from their pavement-like appearance they are called "tessellated." In Fig. 46, *b*, an epithelial scale from the mucous membrane of the inside of the mouth, is represented magnified 570 diameters. In the long axis it was the 1-500th of an inch, and in the shortest 1-900th of an inch in diameter. The central nucleus was 1-4000th of an inch in diameter, and the small granules around it 1-9000th of an inch. These epithelial scales are very numerous, much intermixed, and so thin and transparent that they are often only distinctly seen at the edges, which are occasionally folded or slightly turned over.

Fig. 46.



Tessellated epithelial scales.
a from Sharpey; *b* from observation.

Besides the substances mentioned, other solids and fluids, such as blood and meconium (the fecal discharges of the fœtus) may be found in the stomach of a new-born child, and a question may arise whether their presence indicates that the child was fully born. It is not impossible that a child might be fed and exert a power of swallowing when its head protruded from the outlet, and its body was still in the body of the mother. Children have been known to exert a power of sucking or aspiration under these circumstances, and with this a power of swallowing might be exercised. In defending a prisoner on a charge of child-murder counsel would scarcely resort to a defence of this kind. That the starch, sugar, or milk, &c., found in the stomach, should have been given to a child when its body was only half-born, is so improbable an hypothesis that the most inexperienced lawyer would hardly resort to it to account for the presence of food in this organ.

When the substances found in the stomach are not in the form of food, but are fluids connected with the child or the mother, the case is different. These may penetrate into the lungs or stomach during birth, either by aspiration or the act of swallowing: they thus indicate that the child was living, but they do not necessarily show that its body was entirely in the world when they were swallowed.

5. *Blood.*—An instance is related by Dr. Döring in which a spoonful of coagulated *blood* was found in the stomach of a new-born child. The inner surfaces of the gullet and windpipe were also covered with blood. Dr. Döring inferred from these facts that the child had been born alive; for the blood, in his opinion, could have entered the stomach only by swallowing, *after* the birth of the child, and while it was probably lying with its face in a pool of blood. Taken alone, however, such an inference would not be justifiable

from the facts as stated. Blood might be accidentally drawn into the throat from the discharges of the mother during the passage of the child's head through the outlet, and yet the child may not have been born alive. The power of swallowing may be exerted by a child during birth either before or after the act of breathing. This power appears to be exerted even by the fœtus in utero.

Blood may be recognized in the contents of the stomach not only by the color which it imparts to the mucous liquids present, but by the aid of the microscope. This subject has been already fully considered in another part of this work (p. 246).

Dr. Robinson has made some researches on the contents of the fœtal stomach during uterine life. He finds that the substances which naturally exist in the stomach of a fœtus before birth are of an albuminous and mucous nature. His observations were made on the stomachs of two human fœtuses, and on those of the calf, lamb, and rabbit. The conclusions at which he arrived were: 1. That the stomach of the fœtus, during the latter period of its uterine existence, invariably contains a peculiar substance differing from the uterine liquid (liquor amnii), and generally of a nutritious (?) nature. 2. That in physical and chemical properties, this substance varies in different animals, being in no two species precisely similar. 3. That in each fœtal animal the contents of the stomach vary at different periods; in the earlier stages of its development consisting chiefly of liquor amnii, to which the other peculiar matters are gradually added. 4. That the liquor amnii continues to be swallowed by the fœtus up to the time of birth, and consequently after the formation of these matters and their appearance in the stomach. 5. That the mixture of this more solid and nutritious substance with the liquor amnii constitutes the material submitted to the process of chymification in the fœtal intestines. He considers the contents of the alimentary canal to be chiefly derived from the salivary secretion, and that gastric juice is not secreted until after respiration has been established. The medical jurist will perceive, therefore, that the discovery of farinaceous food, milk, or sugar in the stomach will furnish evidence of birth, since substances of this kind are not found naturally in this organ.

Dr. H. J. Grosse states that in the early stage of uterine life the alimentary canal contains merely a mucous liquid. At the third month there is a more copious secretion—a clear non-albuminous acid liquid is found in the stomach, and a soft chymous liquid is present in the small intestines. Up to the fifth month the small intestines contain meconium of a grayish color. After this period the meconium becomes gradually of a deeper color, and it passes into the large intestine. When the child has attained uterine maturity, the meconium in the jejunum is whitish; in the ileum, yellow; in the cæcum, greenish-yellow; in the ascending colon, green, with less yellow; and in the rectum, green-black, like poppy-juice (hence the name, from μεκων, "a poppy"). It is a mixture of the constituent parts of bile-colored granules, of epithelium from the mucous membrane lining the intestines, and of mucous matters probably de-

rived from the destruction of the epithelial cells. Meconium is generally discharged from the bowels of a child within forty-eighty hours after birth, or at the latest on the third day. It then appears of the consistency of honey, of a very dark-green (almost black) color, with very little yellow coloring-matter in it. It has no disagreeable odor. It specific gravity is 1.148. ("Des Taches au Point de vue Médico-légale," 1863, p. 75.)

6. *Meconium.*—This name is applied to the excrementitious matter produced and retained in the intestines during fœtal life. It may be found in the stomach of a new-born child, and a question will thence arise whether its presence there should be taken as a proof of entire live birth. It may be discharged from the child during delivery, in cases in which there is a difficult or protracted labor. In the act of breathing it may enter the throat with other discharges, and thus be found in the stomach. That a breathing child can thus swallow meconium cannot be disputed, but, assuming that in the body of a child which has not lived to breathe this substance is found in the air-passages and stomach, how is the conclusion affected? In the following case Dr. Fleisher was required to examine the body of a new-born child which was said to have been born dead. He found meconium in the large intestines (the colon and rectum), and a greenish-yellow-colored liquid in the cavity of the stomach, in the larynx, windpipe, and gullet. In the air-passages it was in well-marked quantity. The lungs contained no air, but possessed all the usual fœtal characters. When cut into pieces and placed on water, all the pieces sank. It appeared that a woman was present at the birth, who observed that the child did not breathe, but was born dead. It was not bathed or washed, and no air was blown into its lungs. From the general appearance and properties of the liquid found in the stomach and air-passages, Dr. Fleisher had no doubt that it was meconium from the intestines of the child. It could not have been swallowed after the child was born, but must have been accidentally drawn into its throat by efforts to breathe during birth. Some of the meconium had probably been discharged from the bowels of the child during labor, and as the mouth passed over this liquid a portion was drawn into the throat by aspiration. When once there, the instinctive act of swallowing would immediately convey a portion of it into the stomach. As the facts connected with the birth were well known, this appears to be the only reasonable explanation. (See report of the case in Casper's "Vierteljahrschrift," 1863, vol. 1, p. 97; also for another case, "Med. Times and Gazette," August 3, 1861, p. 116.)

The presence of fluids therefore—such as *blood*, *meconium*, or the watery discharges attending delivery—in the stomach and air-passages of a new-born child, does not prove live birth, but merely indicates the existence of some living actions in the child at or about the time of its birth. In a case which occurred to Dr. Ramsbotham, a woman was suddenly delivered of a child while sitting over a slop-pail of dirty water. On examining the body, it was obvious that it had not breathed. There was no air in the lungs, but a

quantity of dirty water like that in the pail was found in the stomach. This could have entered the organ only by the act of swallowing, and, in Dr. Ramsbotham's opinion, the child had swallowed the liquid under some fœtal attempt to breathe. The coroner who held the inquest directed the jury that the child was born dead: but most physiologists will consider that the power of swallowing cannot be exerted by a dead child; and as its body must have been entirely delivered in order to have fallen into the liquid, there was proof that it had been born living, and that in this instance it had died after it was entirely born, by the prevention of the act of breathing.

The *meconium* may be generally recognized by its dirty-green color and general appearance, as well as by the absence of any offensive odor, which it does not acquire until after the third or fourth day, when it becomes mixed with feculent matter. Its microscopical characters are represented in the annexed engraving (Fig. 47.) In the air passages it is sometimes associated with vernix caseosa, and hairs derived from the skin. ("Med. Times and Gazette," June 1, 1861, p. 591, and Aug. 3, 1861, p. 117; see also "Ann. d'Hyg." 1855, vol. 2, p. 445.

Fig. 47.

Microscopical appearances of Meconium:—*a* crystals of cholesterine; *b* epithelial scales; *c* masses of green coloring-matter of bile (biliverdin); *d e* granules. Magnified 4·0 diameters.

But little need be said on its chemical properties; still, as the detection of stains of meconium on clothing may occasionally form a part of the medical evidence, a few observations are here required. The stains which it produces are of a brownish-green color, very difficult to remove by washing. They stiffen the stuff, and are usually slightly raised above the surface without always penetrating it. Meconium forms with water a greenish-colored liquid, having an acid reaction; a boiling heat does not affect the solution. Nitric acid and sulphuric acid with sugar yield with it the green and red-colored compounds which they produce with bile. Cholesterine may be separated from it by hot ether.

It may be remarked, in reference to stains produced by the fæces of a child which has survived birth, that until the fifth or sixth day they retain a dark-green or greenish-yellow color. On the seventh day after birth, they generally acquire a bright-yellow color, like that of the yelk of an egg; and this color, if the child is in health, they will retain during all the time that it is suckled.

The slightest consideration will show that the various signs of live birth above described are weak, and of purely accidental occurrence. If a child is destroyed either during birth, or within a few minutes afterwards, there will be no medical evidence to indicate the period at which its destruction took place; the external and internal appearances presented by the body will be the same in the two cases.

It is most probable that in the greater number of instances of child-murder, a child is actually destroyed either during birth or immediately afterwards; and, therefore, the characters above described can rarely be available in practice. If any exception be made, it is with respect to the nature, situation, and extent of marks of violence; but the presence of these depends on mere accident. Hence, then, we come to the conclusion that although medical evidence can generally show, from the state of the lungs, that a child has really lived, it can rarely be in a condition to prove, in a case of infanticide, that its life certainly continued after its birth. We could only venture upon this inference when the signs of breathing were full and complete, or when some article of food was found in the stomach.

Conclusions.—The general conclusions which may be drawn from the facts contained in this chapter, on the question whether a child has or has not been *born alive*, are as follows:—

1. That if the lungs be fully and perfectly distended with air by the act of breathing, this affords a strong presumption that the child has been *born alive*, since breathing during birth is in general only partial and imperfect.

2. That the presence of marks of severe violence on various parts of the body, if possessing vital characters, renders it probable that the child was born alive when the violence was inflicted.

3. That certain changes in the umbilical vessels, and the separation (by a vital process) and the cicatrization of the umbilical cord, as well as a general peeling or scaling-off of the cuticle, indicate live birth.

4. That the absence of meconium from the intestines and of urine from the bladder, are not proofs that a child has been born alive, since these liquids may be discharged during the act of birth.

5. That the open or contracted state of the foramen oval or ductus arteriosus furnishes no evidence of a child having been born alive. These parts may become closed and contracted *before birth*, and therefore be found closed in a child born dead; or they may remain open after birth in a child born living, even subsequently to the establishment of respiration.

6. That the presence of farinaceous or other food in the stomach proves that a child has been entirely born alive.

7. That the presence of blood, meconium, vernix caseosa, or the discharges in the stomach and air-passages, does not prove that a child was born alive.

8. That irrespective of the above conclusions, there is no certain medical sign which indicates that a child that has died at or about the time of birth, has been born alive.

CHAPTER XLIX.

CAUSES OF DEATH IN NEW-BORN CHILDREN.—PROPORTION OF CHILDREN BORN DEAD.—NATURAL CAUSES OF DEATH.—A PROTRACTED DELIVERY.—DEBILITY.—BLEEDING FROM LACERATION OF THE NAVEL STRING.—COMPRESSION OF THE NAVEL-STRING.—MALFORMATION.—DESTRUCTION OF MONSTROUS BIRTHS.—DEATH FROM CONGENITAL DISEASE.

Causes of Death in New-born Children.—The next important question in a case of infanticide, and that upon which a charge of murder essentially rests, is: What was the cause of death? 1. It is admitted that a child may die during birth or afterwards. 2. In either of these cases it may die from *natural* or *violent causes.* The violent causes may have originated in *accident* or in *criminal design.* The last condition only involves the corpus delicti of child-murder. If death has clearly proceeded from natural causes, it is of no importance to settle whether the cause operated during or after birth. All charge of criminality is thenceforth at an end.

It is well known that of children born under ordinary circumstances, a great number die from *natural causes* either during birth or soon afterwards; and in every case of child-murder, death will be presumed to have arisen from some cause of this kind until the contrary appears from the medical evidence. This throws the onus of proof entirely on the prosecution. Many children die before performing the act of respiration; and thus a large number come into the world dead or still-born. The proportion of *still-born* among legitimate children, as it is derived from statistical tables extending over a series of years, and embracing not fewer than eight millions of births, varies from one in eighteen to one in twenty of all births. ("Brit. and For. Med. Rev." No. 7, p. 235.) In immature and illegitimate children, forming the greater number of those which give rise to charges of child-murder, the proportionate mortality is much greater; probably about one in eight or ten. Still-births are much more frequent in first than in after-pregnancies. These facts should be borne in mind, when we are estimating the probability of the cause of death being natural. Thus, children are much more frequently born dead among primiparous than among non-primiparous females. According to Dr. Lawrence's observations, the proportion of deaths is 1 to 11 of the primiparous and 1 to 31.2 among the non-primiparous. ("Edin. Med. Jour." March, 1863, p. 815.) In most cases of child-murder the woman is primiparous.

Should breathing be established by the protrusion of the child's head from the outlet, or during the birth of the body, the chances

of death from natural causes are considerably diminished. Nevertheless, as Dr. Hunter long ago suggested, a child may breathe and die. Thus, according to this author, "If the child makes but one gasp and instantly dies, the lungs will swim in water as readily as if it had breathed longer and had then been strangled." In general, it would require more than one gasp to cause the lungs to swim readily in water; but waiving this point, the real question is: If the child breathed either during or after birth, what could have caused its death? The number of gasps which a child may make, or which may be required for the lungs to swim in water, is of no moment; the point to be considered is, whether its death was due to causes of an accidental or criminal nature. So again observes Dr. Hunter: "We frequently see children born, who, from circumstances in their constitution or in the nature of the labor, are but barely alive, and after breathing a minute or two, or an hour or two, die, in spite of all our attention. And why may not this misfortune happen to a woman who is brought to bed by herself?" (Op. cit.) The substance of this remark is, that many children may die naturally after having been born alive; and in Dr. Hunter's time, these cases were not perhaps sufficiently attended to. In the present day, however, the case is different; a charge of child-murder is seldom raised, except in those instances where there are the most obvious marks of severe and mortal injuries on the body of a child; and unless it be intended to defend and justify the practice of infanticide, it must be admitted that the discovery of violence of this kind on the body of a new-born infant renders a full inquiry into the circumstances necessary. Among the *natural* causes of the death of a child may be enumerated the following:—

1. *A Protracted Delivery.*—The death of a child may proceed, in this case, from injury suffered by the head during the violent contractions of the uterus, or from an interruption to the circulation in the umbilical cord before respiration is established. A child, especially if feeble and delicate, may die from exhaustion under these circumstances. This cause of death may be suspected when a serosanguinolent tumor (called *cephalæmatoma*, or *caput succedaneum*) is found on the head of a child, and the head itself is deformed or elongated; internally, by the congested state of the vessels of the brain. The existence of deformity in the pelvis of the woman might corroborate this view; but in primiparous women (among whom charges of child-murder chiefly lie) with well-formed pelves, delivery is frequently protracted. It is presumed that there are no marks of violence on the body of the child, excepting those which may have reasonably arisen from accident in attempts at self-delivery.

2. *Debility.*—A child may be born either prematurely or at the full period, and not survive its birth, owing to a natural feebleness of system. This is observed among immature children; and it is a condition especially dwelt on by Dr. Hunter. Such children may continue in existence for several hours, breathing feebly, and may then die from mere weakness. These cases may be recognized by

the immature condition of the body and the appearance of a general want of development.

3. *Bleeding from Laceration of the Navel-String.*—A child may die from loss of blood, owing to a premature separation of the placenta or an accidental rupture of the navel-string. In the latter case it is said the loss of blood is not likely to prove fatal if breathing has been established; but an instance is reported in which a child died from bleeding even under these circumstances. (Henke's "Zeitschrift," 1839, Erg. H., p. 200; also 1840, vol. 1, p. 347, and vol. 2, p. 105; "Ann. d'Hyg." 1831, vol. 2, p. 128.) Bleeding from the cord has in some cases taken place at various periods after birth, and has led to the death of the child. ("Edin. Month. Jour." July, 1847, p. 70.) Death from bleeding may be commonly recognized by the blanched appearance of the body, and a want of blood in the internal organs; but there are several instances on record, in which the cord was ruptured close to the abdomen without causing the death of the child. Bleeding from the vessels of the navel-string may prove fatal several days after birth, even when a child has been properly attended to, and the navel-string has separated by the natural process. Mr. Willing has reported a case of this kind, in which, in spite of every application, the child died from loss of blood six days after the cord had separated. ("Med. Times and Gaz." March 25, 1854, p. 287.) The impossibility of arresting the bleeding in this case appeared to depend upon a great deficiency of fibrin in the blood, and a consequent want of tendency to coagulation.

4. *Compression of the Navel-String.*—When a child is born by the feet or buttocks, the cord may be so compressed under strong uterine contraction that the circulation between the mother and child will be arrested, and the latter will die. The same fatal compression may follow when, during delivery, the cord becomes twisted round the neck. A child has been known to die under these circumstances before parturition, the cord having become twisted round its neck in the uterus. ("Med. Gaz." Oct. 1840, p. 122; also vol. 19, pp. 232, 233.) On these occasions the child is sometimes described to have died from strangulation, but it is evident that before the establishment of respiration such a form of expression is improper. There are few or no appearances indicative of the cause of death. There may be lividity about the head and face, with a mark or furrow on the neck, and congestion of the brain internally; it is, however, necessary to remember that the brain of a child is always more congested than that of an adult.

5. *Malformation. Monstrosity.*—There may be a deficiency or defect of some vital organ which would at once account for a child dying either during delivery or soon after its birth. Two cases are reported, in one of which the child died from an absolute deficiency of the gullet; the pharynx terminating in a cul-de-sac; in the other, the duodenum was obliterated for more than an inch, and this malformation had occasioned the child's death. ("Med. Gaz." vol. 26, p. 542.) In a third, recorded by Mr. Fairbairn, a child was suffocated by a retraction of the base of the tongue, owing to defect of the

frænum. ("North Jour. Med." March, 1849, p. 278.) The non-establishment of respiration sometimes arises from the mouth and fauces of the child being filled with mucus. An enlargement of the thyroid gland has occasionally led to the death of a new-born child by suffocation. ("Edin. Month. Jour." July, 1847, p. 64.) The epiglottis is sometimes fixed over the glottis so as to prevent the entrance of air. In a case which occurred to Dr. Hicks, a child was saved by the introduction of a finger; the air suddenly rushed in, and the child was enabled to breathe. But a child may be born in this state when no person is at hand to assist the woman; in this case it will die; and the lungs being found in the fœtal or unexpanded condition, it will be pronounced still-born. Obstruction of the air-passages is a frequent cause of death among still-born children.

The varieties of *malformation* are very numerous, but there can be no difficulty in determining whether they are such as to account for death. Persons are not allowed to destroy monstrous births; and the presence of any marks of violence in such cases should be regarded with suspicion. It is the more necessary to make this statement, as there is an idea among the vulgar that it is not illegal to destroy a monstrous birth. Mr. Poole, of Cirencester, communicated to me a case which occurred some years since in his practice. A lady was delivered of a most hideous dicephalous (two-headed) monster. In his absence, and at the earnest solicitations of the friends, the nurse destroyed it. The question was, was this woman guilty of murder? The only case in reference to this point which is recorded by medico-legal writers, is that of two women who were tried at the York Assizes in 1812, for drowning a child which was born with some malformation of the head, in consequence of which it was likely that it could not survive many hours. It did not appear that there had been any malice or concealment on the part of the prisoners, who were not aware of the illegality of the act. (Paris and Fonblanque, ("Med. Jur." vol. 1, p. 228.) The absence of malicious intention would probably lead to an acquittal on a charge of murder, but such an act would doubtless amount to manslaughter; the degree of monstrosity or the viability of the offspring cannot be received as an extenuating circumstance. As to the first, if a liberty of judging what was monstrous and what not, were conceded to any ignorant nurse, children simply deformed might be put to death on this pretence; as to the second, it is held in law that whoever accelerates death causes it; hence the fact that the offspring is not likely to live more than a few hours does not justify the act of one who prematurely destroys it.

6. *Atelectasis.*—This, as it has been elsewhere explained, implies simply an unexpanded state of the lungs. In some cases it is completed, in others partial. (See ante, p. 480.) It can scarcely be regarded as a diseased condition, as the body of the child may be otherwise healthy; the lungs themselves are in a normal state, and they can be easily expanded by the artificial introduction of air. That they are not so expanded during birth or afterwards may arise from feebleness in the child.

7. *Congenital Disease.*—It has been elsewhere stated, that a child may be born laboring under such a degree of congenital disease as to render it incapable of living. The discovery of any of the fœtal organs merely in a morbid condition amounts to nothing unless the disease has advanced to a degree which would be sufficient to account for death. There are, doubtless, many obscure affections, particularly of the brain, which are liable to destroy the life of a child without leaving any well-marked changes in the dead body. According to Dr. Burgess, apoplexy and asphyxia are common causes of death among new-born children. ("Med. Gaz." vol. 26, p. 492; Henke's "Zeitschrift der S. A." 1843, p. 67.) Probably diseases of the lungs are of the greatest importance in a medico-legal point of view; because, by directly affecting the organs of respiration, they render it impossible for a child to live, or to survive its birth for a long period. These diseases in the fœtal state are principally congestion, hepatization, tubercle, scirrhus, and œdema; the existence of any of which it is not difficult to discover. They render the structure of the lungs heavier than water, and thus prevent the organs from acquiring that buoyancy which in their healthier state they are known to possess. It is not common to find the lungs diseased throughout; a portion may be sufficiently healthy to allow of a partial performance of respiration.

Conclusions.—The following conclusions may be drawn from the preceding remarks:—

1. That a large number of illegitimate children, especially when immature, are born dead from *natural* causes.

2. That a child may die from exhaustion as the result of a protracted labor.

3. That if a child be prematurely born, or if it be small and weak even at the natural period, it may die from mere debility or want of power in the constitution either to commence or to continue the act of respiration.

4. A child may die from loss of blood, owing to accidental rupture of the cord during delivery; it may even die from this cause after it has breathed.

5. That fatal bleeding is more likely to occur when the cord has been cut close to the addomen than when it has been lacerated or cut at a distance from the navel.

6. That the division of the cord, whether by rupture or incision, without ligature, is by no means necessarily fatal to a healthy mature child.

7. That a child may die from accidental compression of the cord during delivery—the circulation between the mother and child being thereby arrested before respiration had commenced.

8. That death may speedily follow birth from some malformation or defect, or defective condition of important organs.

9. That a child may die from congenital disease affecting the organs of respiration or the air-passages.

CHAPTER L.

VIOLENT CAUSES OF DEATH.—SUFFOCATION.—DROWNING.—DEATH OF THE CHILD FROM COLD AND EXPOSURE.—STARVATION.—DEATH FROM IMMATURITY.—WOUNDS IN NEW-BORN CHILDREN.—FRACTURES OF THE SKULL, ACCIDENTAL AND CRIMINAL.—TWISTING OF THE NECK.—VIOLENCE IN SELF-DELIVERY.—POWER OF LOCOMOTION AND EXERTION IN FEMALES AFTER DELIVERY.

Violent Causes of Death.—In this chapter we have to consider those modes of death which are totally independent of the existence of congenital disease or other natural causes. In most cases of alleged child-murder, the body of the child bears about it the marks of physical injury, such as those which are indicative of strangulation, wounds, burns, and fractures. The marks of violence may be such as to leave no doubt that they were wilfully inflicted.

In order to render a person criminally responsible, it must be proved that the injuries were unlawfully inflicted on a living child, and that they were the cause of death. Assuming that the alterations in the law regarding the destruction of new-born children will be carried out (p. 493), cases of child-murder will include all those in which it is proved that the violence was wilfully inflicted during or after birth, and that it was subsequently the cause of death. If the child has died after birth, from violence carelessly or ignorantly inflicted during birth or afterwards, this will constitute a case of manslaughter. A question of medical responsibility may be raised under these circumstances, as where a medical man is charged with having caused the death of a child by gross ignorance and carelessness in the delivery of a woman. The following instance is reported by Chitty ("Med. Jur." p. 416; also Archbold, p. 345): A man of the name of *Senior*, who, it appears, was an unlicensed medical practitioner, was tried for the manslaughter of an infant, by injuries inflicted on it at its birth. The prisoner practised midwifery, and was called to attend the prosecutrix, who was taken in labor. The evidence showed that when the head of the child presented, the prisoner, by some mismanagement, fractured, and otherwise so injured the cranium, that the child died immediately *after* it was born. It was argued, in defence, that as the child was not born (*in ventre sa mere*) at the time the wounds and injuries were inflicted, the prisoner could not be guilty of manslaughter. The judge, however, held that as the child was born *alive* and had subsequently died from the violence, the case might be one of manslaughter. This opinion was afterwards confirmed by the other judges, and the prisoner was convicted and sentenced to imprisonment. From the decision in this

case, it will be seen that if the prisoner had effectually destroyed the child before it was entirely born, he would not have been guilty of any crime.

Some general observations have been elsewhere made on the mode in which the dead body of a child in an alleged case of child-murder should be examined (p. 470). A note of all marks of physical injury, however slight in appearance, may be of importance in the case. There are some forms of child-murder which are not necessarily attended with marks of violence; thus a child may be criminally destroyed by suffocation, drowning, exposure to cold, or privation of food. It may die under these circumstances, and its body may present no unusual appearance. These modes of destroying life will therefore first require consideration.

1. *Suffocation.*—This is a common cause of death in new-born children. A wet cloth may be placed over the child's mouth, or thrust into this cavity, either during birth or afterwards, and before or after the performance of respiration. To the latter case only could the term suffocation be strictly applied. A child may be thus destroyed by being allowed to remain closely compressed under the bed-clothes after delivery, or by its head being thrust into straw, feathers, ashes, and similar substances. The appearances in the body are seldom sufficient to excite a suspicion of the cause of death, unless undue violence has been employed. There is commonly merely lividity about the head and face, with slight congestion of the lungs. A careful examination of the mouth and throat should be made, as foreign substances are sometimes found in this situation, affording circumstantial evidence of the mode in which the suffocation has taken place. Thus wood, straw, feathers, dust, tow, or a hard plug of linen may be, and in some cases have been, found blocking up the mouth and throat, drawn into these parts by aspiration when the mouth of a child has been covered with such substances. If a child has lived sufficiently long to be fed, it may be accidentally suffocated by the entrance of portions of solid food, such as the curd of milk, into the windpipe and air-passages.

A new-born child may be suffocated by having its head held over noxious vapors, such as the exhalations of a privy or of burning sulphur; and it is here necessary to remind a medical jurist that other highly poisonous vapors, e. g. chloroform, may be used by a criminal without leaving any traces upon the body—except, possibly, for a short time, that which may depend upon their peculiar odor. There are a few of these cases of suffocation in which a positive medical opinion of the causes of death could be given, unless some circumstantial evidence were produced, and the witness were allowed to say whether the alleged facts were or were not sufficient to account for death. ("Annales d'Hyg." 1832, vol. 1, p. 621.)

On the other hand, if it be even clearly proved that death has been caused by suffocation, it must be remembered that a child may be accidentally suffocated, and the crime of murder falsely imputed. Dr. J. M. Duncan, quoting the observations of Dr. Buhl, states that obstruction of the air-passages by mucous and other matters is a

frequent cause of death in new-born children. Among twenty-seven children dying in labor or shortly after birth, eleven died from obstruction of the air-passages with foreign matters. Eight were born dead, and of those which were alive at birth, none survived the first day. In ten of these cases the obstruction was produced by a greenish-brown slimy mass (meconium and mucus) filling the larynx and windpipe. In two of the cases, in which the child died during delivery, air was found in the lungs, and in only one of these the air had been derived from the act of respiration during birth. ("Edin. Monthly Med. Jour." April, 1863, p. 924; also "Med. Times and Gazette," August 3, 1861, p. 117.) In Dr. Hicks's case (p. 508) the base of the tongue in a new-born child was so drawn down by spasmodic action as to close the glottis by pressing backwards the epiglottis. The child was saved by simply raising the epiglottis, when air rushed in, and breathing was established; but many children must be born under similar conditions when no assistance is at hand. Cases of this kind, however, rarely give rise to charges of child-murder, as no air is found in the lungs. A child might be killed during delivery by pressure applied to the chest; this might be such as not to produce any marks of violence. If the child had not breathed, there would be nothing to indicate the mode of death; if air had entered the lungs, then the usual appearances would be found in these organs (p. 475). In dealing with a case of this kind, it should be remembered that a child with its head born, but detained in the outlet by the size of its shoulders, might die from pressure exerted on the chest by the vagina. It might have breathed, but be born dead with the marks of suffocation about it. There is another accidental cause of the death of a new-born child during delivery. The membranes or caul may be carried forward over the head and face, and the act of breathing thus mechanically prevented. If no assistance is at hand, the child, although born living, will die soon after birth in consequence of the prevention of respiration. If, when the dead body is found, the membranes are no longer there, the cause of the prevention of respiration would not be apparent. The child, although born living, would probably be pronounced to have been born dead. ("Med. Times and Gaz.," January, 1863, p. 126.) The delivery of a child with a mask or caul around its head is not an unfrequent occurrence. In June, 1862, Mr. Blenkinsop, of Warwick, communicated to me a case in which a mature and healthy child so born was allowed to perish by those who had access to it. The caul was simply not removed, so that breathing could not be set up. The lungs contained no air. There was congestion of the brain and lividity of the body, but no mark of violence. There was some evidence that the child had been born living, and that the cause of death was the prevention of respiration by omission to do that which was necessary. As the medical evidence showed that the child had not breathed, the Coroner held that it had never had any (legal) existence, and that there was no ground for further investigation. Dr. Hunter, who was well aware of the risk to which a woman might be thus exposed, observes in relation to this state

of things:—"When a woman is delivered by herself, a strong child may be born perfectly alive, and die in a very few minutes for want of breath, either by being on its face in a pool formed by the natural discharges, or upon wet clothes: or by the wet things over it collapsing and excluding air, or drawn close to its mouth and nose by the suction of breathing. An unhappy woman delivered by herself, distracted in her mind and exhausted in her body, will not have strength or recollection enough to fly instantly to the relief of her child." (Op. cit. p. 35.) It may be added that a primiparous woman may faint or be wholly unconscious of her situation; or, if conscious, she may be ignorant of the necessity of removing the child, and thus it may be suffocated without her having been intentionally accessory to its death. In such cases, however, there should be no marks of violence on the body, or, if present, they should be of such a nature and in such a situation as to be readily explicable on the supposition of an accidental origin.

An infant is easily destroyed by suffocation. If the mouth and nostrils are kept covered for a few minutes, by the face being closely wrapped in clothes, asphyxia may come on without this being indicated by convulsions or any other marked symptoms (see p. 388). A suspicion of murder may arise in such cases; but the absence of marks of violence, with an explanation of the circumstances will rarely allow the case to be carried beyond an inquest. Sometimes the body is found maltreated, with severe fractures or contusions on the skull, and marks of strangulation on the neck; concealed in a feather-bed or privy, or cut up and burnt. This kind of violence may properly excite a suspicion of murder, and lead to the belief that the allegation of death from accidental suffocation is a mere pretence. This, however, is purely a question for a jury, and not for a medical witness. Unless the case be of a glaring nature, the violence is considered to have been employed for the purpose rather of concealing the birth of a child than of destroying it. In the present day these cases of death from accidental suffocation, when properly investigated, can never involve an innocent woman in a charge of murder, although the facts may show in many instances that the death of the child was really due to great imprudence, gross neglect, or culpable indifference on her part.

The appearances in the body in cases of death from suffocation have been elsewhere described, in reference to adults (p. 378); they are similar in new-born children, provided respiration has been fully performed. M. Tardieu attaches great importance to the discovery of subpleural ecchymoses in the lungs of children: he has also noticed small effusions of blood on the surface and in the substance of the thymus-gland. ("Ann. d'Hyg.," 1855, vol. ii. p. 379.) If the lungs float on water, as the result of breathing, then the appearances described will be met with: but it is worthy of remark that in three instances M. Tardieu met with similar appearances in children whose lungs had not received air, and sank when placed on water. They were children prematurely born, and under conditions which prevented full vital development. One born in the Hospital of Riboi-

sière uttered several cries, but, in spite of this, the lungs contained no air. The subpleural ecchymoses met with in children under these circumstances, are ascribed by M. Tardieu to the efforts made to breathe after birth (loc. cit.). Partial emphysema of the lungs is occasionally observed.

2. *Drowning.*—The fact of drowning cannot be verified by any appearances on the body of a child which has *not* breathed. Thus, if a woman caused herself to be delivered in a bath, and the child was forcibly retained under water (a case which is said to have occurred), it would of course die; but no evidence of the mode of death would be found in the body. After respiration, the signs of drowning will be the same as those met with in the adult. (See p. 321.) The main question for a witness to decide will be, whether the child was put into the water living or dead. Infanticide by drowning is by no means common; the child is generally suffocated, strangled, or destroyed in other ways, and its body is then thrown into water in order to conceal the real manner of its death. The fact of the dead body of an infant being found in water must not allow a witness to be thrown off his guard; although a verdict of "found drowned" is so commonly returned in these cases; the body should be carefully inspected in order to determine what was really the cause of death. All marks of violence on the bodies of children that have died by drowning should be such as to have resulted from accidental causes. The throat and air-passages should be particularly examined.

It is not necessary that the *whole* of the body of a child should be submerged, in order that it may be destroyed by drowning: the mere immersion of the head in water, or the covering of the mouth by liquid, will suffice to produce the usual effects of asphyxia. The outlets of the ears and the air-passages should be examined for foreign substances which may be deposited in them.

New-born children may be drowned or suffocated by being thrown into mud, or into the soil of a privy. Sometimes the child is destroyed by other means, and its body is thus disposed of for the purpose of concealment. Should there be a large quantity of liquid present, the phenomena are those of drowning. The liquid portion of the soil abounding in sulphide of ammonium may then be found, if the child was thrown in living, in the air-passages, gullet or stomach. The mere discovery of soil in the mouth would not suffice to show that the child was living when immersed; but the presence of foreign substances, such as dirt, straw, or ashes, in the air-passages, gullet, and stomach, has usually been taken as a medical proof that the child was living when immersed in the dirt, &c., and that the substances had been drawn into the passages by aspiration or by the act of swallowing.

On these occasions the defence may be: 1. That the child was born dead, and that the body was thrown in for concealment: but the medical evidence may show that it had breathed, and had probably been born living. 2. It may be alleged that the child breathed for a few moments after birth, had then died, and that the woman

had attempted to conceal the dead body. A medical witness may be here asked, whether a woman could have had power to convey the body to the place—a point which must, as a general rule, be conceded. 3. It is most commonly urged, that the woman being compelled to go to the privy, was there *delivered unconsciously* or unexpectedly; that her waters had broken in the watercloset, and that she had no idea of anything more having happened; or that the child had dropped from her, and was either suffocated or prevented from breathing. ("Med. Times and Gazette," Dec. 21, 1861, p. 646.) All these circumstances may readily occur, but, on the other hand, the explanation may be inconsistent with some of the medical facts. (See a case by M. Adelon "Ann. d'Hyg." 1855, vol. 2. p. 453; also Casper's "Klinische Novellen," 1863, p. 585.) Thus, the head or the limbs of a child may be found to have been separated or divided by some cutting instrument, or a cord or other ligature may be found tightly bound round its neck, or there may be a tightly-fitting plug in the throat. Then, again, the body may be entire, but the umbilical cord may be *cleanly cut*. This would tend to set aside the explanation of the child having accidentally dropped from the female: because in such an accident the cord should always be found *ruptured*. The practitioner should make a careful examination of the divided ends of the cord by the aid of a lens, or a rupture may be mistaken for a section with a sharp instrument. Mr. Higginson of Liverpool, has published a case of some interest in this point of view. The child fell from the mother, and the cord broke spontaneously. "The torn ends were," he states, "nearly as sharp-edged and flat as if cut." ("Med. Gaz." vol. 48, p. 985.) This case goes to prove that a careless or hasty examination of the ends of the cord may lead to a serious mistake.

When the cord is lacerated, this will be, cæteris paribus, in favor of the woman's statement as to the mode in which her delivery occurred. Drowning may be the result of accident from sudden delivery. A woman in an advanced state of pregnancy, while sitting on a chamber-vessel, was suddenly delivered. The child fell into the fluids in the vessel, and before assistance could be rendered, it was dead.

Whether, in any instance, the *drowning* of a child was accidental or criminal, must be a question for a jury to determine from all the facts laid before them. The situation in which the body of an infant is found may plainly contradict the supposition of accident. On the other hand, a child may be accidentally drowned by its mouth falling into a pool of the discharges during delivery, although this would be rather a case of suffocation. The throat, windpipe, and stomach of the child should always be examined on these occasions, as mud, sticks, straw, weeds, or other substances may be found in these parts, indicating, according to circumstances, that the child had been put into the water living, and that it had been drowned in a particular pond or vessel.

3. *Cold.*—A new-born child may be easily destroyed by simply exposing it uncovered, or but slightly covered, to a cold atmosphere

In a case of this kind there may be no marks of violence on the body, or these may be slight and evidently of accidental origin. In death from cold the only appearance occasionally met with has been congestion of the brain, with or without serous effusions in the ventricles. (See COLD, p. 410.) The evidence in these cases must be purely circumstantial. The medical witness may have to consider how far the situation in which the body was found; the kind of exposure, and the temperature of the air, would suffice to account for death from the alleged cause. There is no doubt that a new-born child is easily affected by a low temperature, and that warm clothing is required for the preservation of its life. An inspection of the body should never be omitted on these occasions, because it might turn out that there was some latent cause of natural death which would at once do away with the charge of murder. Admitting that the child died from cold, it becomes necessary to inquire whether it was exposed with a malicious intention that it should thus perish. Unless wilful malice be made out, the accused cannot be convicted of murder. In general, females do not expose their children for the purpose of destroying them, but for the purpose of abandoning them; hence it is rare to hear of convictions for child-murder where cold was the cause of death, although some medical jurists have called this infanticide by *omission*, an offence which does not appear to be recognized by the English law.

4. *Starvation.*—A new-born child kept long without food will die, and no evidence of the fact may be derivable from an examination of the body. There may be no marks of violence externally, nor any pathological changes internally, to account for death. This is a rare form of murder, except as it may be accidentally combined with exposure to cold. In order to convict the mother, it is necessary to show that the child was wilfully kept without food, with the criminal design of destroying it. Mere neglect or imprudence will not make the case infanticide. The only appearance likely to be found on an examination of the body would be complete emptiness of the alimentary canal. Without corroborative circumstantial evidence, this would not suffice to establish the cause of death; a medical witness could only form a probable conjecture on the point. In a suspected case of this kind, the contents of the stomach should be tested for farinaceous and other kinds of food.

5. *Immaturity in Cases of Abortion.*—From the case of *Reg.* v. *West* (Nottingham Lent Assizes, 1848), it would appear that if by the perpetration of abortion, or the criminal inducement of premature labor, a child be born living at so early a period of uterine life that it dies merely from *immaturity*, the person causing the abortion, or leading to the premature birth, may be tried on a charge of murder. A midwife was alleged to have perpetrated abortion on a female who was between the fifth and sixth month of pregnancy. The child was born living, but died five hours after its birth. There was no violence offered to it; and its death appeared to be due entirely to its immaturity. The prisoner was acquitted, apparently on the ground that abortion might have arisen from other causes.

Among those cases of violent death which leave on the body of the child certain marks or appearances indicative of the cause, may be mentioned wounds, strangulation, and poisoning.

6. *Wounds.*—Probably this is one of the most frequent causes of death in cases of child-murder. Wounds may, however, be found on the body of a child which has died from some other cause. The principal questions which a medical witness has to answer are: 1. Whether the wounds were inflicted on the body of the child before or after death. 2. Whether they were sufficient to account for death; and 3, whether they resulted from accident or criminal design. The child may have been destroyed by *burning*, and evidence must then be sought for by an examination of the state of the skin. All these questions have been fully considered in treating the subject of WOUNDS, and they therefore do not require any special notice in this place.

Incised wounds found on the bodies of children may be referred to the use of a knife or scissors by the prisoner in attempting to sever the navel-string, and they may therefore be due to accident. This point should not be forgotten, for a wound even of a severe kind might be thus accidentally inflicted. In such cases we should always expect to find the navel-string *cut*, and not lacerated. The end of it may, for the purpose of examination, be stretched out on a piece of white card. This will in general suffice to show whether it has been cut or torn. Wounds, however slight, should not be overlooked: minute punctures or incisions externally may correspond to deep-seated injury of vital organs. The spinal marrow is said to have been wounded by needles or stilettoes introduced between the vertebræ, the skin having been drawn down before the wound was inflicted, in order to give it a valvular character, and to render it apparently superficial. The brain is also said to have been wounded, by similar weapons, either through the nose or the thinner parts of the skull (the fontanelles).

In some instances the body of a child is found cut to pieces, and the allegation in defence may be that the child was still-born, and the body thus treated merely for the purpose of concealment. Dr. Toulmouche has reported a case of this kind, which was the subject of a trial in France in 1852. As the woman had not destroyed the lungs, experiments on these organs gave satisfactory results of perfect respiration. The cavities of the heart and great vessels were empty; the body was generally drained of blood, and the skin throughout very pale. This led to the inference that the mutilations must have been inflicted while the child was living; and as all the parts were healthy and no natural cause of death apparent, Dr. Toulmouche ascribed the death of the child to the wounds. The woman was convicted, and condemned to twenty years' confinement in the galleys. ("Ann. d'Hyg." 1853, vol. 2, p. 200.) In this country she would probably have escaped under a verdict of "concealment of birth," and have been sentenced to a year's imprisonment.

Injuries to the Head.—It has been elsewhere stated that during a protracted delivery there is formed on the head of a child a tumor containing either serum, blood, or a mixture of the two. If a woman

has been secretly delivered, non-professional persons may ascribe a tumor of this kind to violence, whereas it may really have been produced by natural causes. The tumor is generally situated on one of the parietal bones, its situation depending on that part of the head which presents during delivery. After the discharge of the waters, the scalp is firmly compressed by the mouth of the uterus, and subsequently by the os externum. This pressure interferes with the circulation through the skin, and causes the compressed portion of the scalp to swell. In the simplest form of this tumor serum only is found in the swollen part; occasionally this is mixed with blood, and there are small ecchymoses of the scalp, as well as of the pericranium and skull, but there is generally no injury to the bones, nor is there any laceration of the skin externally. In other cases blood is found effused in the tumor either under the scalp, the membrane covering the skull (pericranium), or within the skull itself. The term *Cephalæmatoma* or *Caput succedaneum* is applied to a tumor which has this natural origin (p. 506). The sanguineous, is more likely to be confounded with the effects of violence than the serous tumor: but it may be identified by the scalp being always uninjured, although it may present redness and lividity. Violence from blows or falls which would produce bloody effusions beneath the scalp, or within the skull, would in general be indicated by injury to the skin or by fracture of the bones.

The only injuries to the head which require to be specially considered in relation to infanticide, are *fractures of the skull;* and here the question to which we may chiefly confine our attention is, whether the fracture arose from accident or criminal violence. The rules for determining whether these injuries were inflicted during life or after death have been elsewhere considered. (See Wounds, p. 210.)

Although it has been a matter of frequent observation, that great violence may be done to the head of a child during parturition without necessarily giving rise to fracture, yet it is placed beyond all doubt that such an injury may occur by the expulsive efforts of the uterus forcing the head of a child against the bones of the pelvis. Even the violent compression which the head sometimes experiences in passing the mouth of the uterus, may suffice for the production of fracture. (See "Edin. Med. and Surg. Jour." vol. 26, p. 75.)

It was formerly supposed that fractures of the skull in new-born children were always indicative of criminal violence; but cases which have occurred in obstetric practice have established the certainty of their accidental occurrence. These accidental fractures, it is to be observed, are generally slight; they commonly amount merely to fissures in the bones, beginning at the sutures, and extending downwards for about an inch or less into the body of the bone. According to Dr. Weber, the frontal and parietal bones are the only bones liable to be fissured or fractured by the action of the uterus during delivery; and in the greater number of cases reported, the parietal bones only have presented marks of fracture.

The possible occurrence of an injury of this kind as the result of uterine action has been strained in several cases of child-murder, to

explain the origin of fractures which could not fairly or reasonably be assigned to such an accident. A case was tried at Glasgow, in April, 1852 (case of *Ann Irwin*), in which there was no doubt, from the state of the lungs, that the child had fully breathed, and there was violence to the head which satisfactorily accounted for its death. The whole of the right side of the head was deeply ecchymosed, and there was a large quantity of coagulated blood lying beneath the scalp. In the centre of the right parietal bone there was a fracture extending across the vertex for fully four inches, and involving a part of the parietal bone on the opposite side; it was in a continuous even line, not radiated and not depressed. The pericranium, bones, and soft parts in the track of the fracture were deeply ecchymosed, while on the surface of the brain, particularly on the right side, there was a copious effusion of clotted blood. It was impossible to refer severe injuries of this kind to the action of the uterus in delivery, or to violence applied after death. The prisoner alleged that the child was still-born. (See "Edin. Monthly Jour.," June, 1852.)

Accidental fractures and effusions of blood which are caused by uterine action may be in general recognized by their slight extent. In cases of murder by violence to the head, the injuries are commonly much more severe: the bones are driven in, the brain protrudes, and the scalp is extensively lacerated. Such severe injuries as these cannot be ascribed to the action of the uterus in parturition. Here, however, it may be fairly urged, that the woman was unexpectedly seized with labor, that the child was expelled suddenly by the violent efforts of the uterus, and that the injuries might have arisen from its head coming in contact with some hard surface—as a floor or pavement. It must be admitted that a woman may be thus suddenly and unexpectedly delivered while in the erect posture, although this is not common among primiparous women; and that injuries may be thus accidentally produced on the head of a child.

A woman is often unable to distinguish the sense of fulness, produced by the descent of a child, from the feeling which leads her to suppose that she is about to have an evacuation: and thus it is dangerous, when a labor has advanced, to allow a woman to yield to this feeling, for there is nothing more probable than that the child will be suddenly born. Mr. Rankin, of Carluke, has reported two cases of this description, where there could not be the slightest suspicion of criminality. In one, a primipara, the child was actually born under these circumstances, but its life was fortunately saved; had there been no other convenience than a privy it must have been inevitably lost. In the second, although a case of third pregnancy, the female was equally deceived by her sensations. ("Edin. Month. Jour.," Jan. 1846, p. 11.) It is true that this alleged mistaken sensation forms a frequent and specious defence on charges of child-murder; but still a medical jurist is bound to admit, that an accident which occurs to women of the middle class, may also occur to the poor without necessarily implying guilt.

The following case shows that a fracture of the skull of a child

may occur when a woman is delivered in the erect posture. In this instance there was merely the appearance of a bruise on the head, and the navel-string was ruptured (not cut) three inches from the navel. The child did not suffer from the fall, and continued well until six days after its birth, when it was seized with convulsions and died. A fissure of about an inch and a half in length was found in the upper part of the left parietal bone. A clot of blood was found in this situation between the dura mater and bone, and there was congestion of the vessels of the membranes; with this exception there was no morbid appearance in the body. ("Association Journal," Oct. 14, 1853, p. 901.) Dr. Porter Smith, of Bath, communicated to me a case, which occurred in November, 1856, in which the facts were similar to those above related. In consequence of the concealment of the body, however, the mother was charged with murder. The right parietal bone was fractured, and there was effusion of blood internally, but there was no mark of external violence. The cord had been ruptured at a distance of two-and-a-half inches from the navel. The stomach of the child contained the usual albuminous and mucous matters of the fœtal state, without any appearance of food. The lungs contained air, and were highly crepitant; the foramen ovale and the ductus arteriosus were in their fœtal condition. The child had probably been drowned in the discharges from want of assistance at the time of birth. The woman, who admitted that the child fell from her suddenly, was acquitted. Dr. Olshausen has published four cases of sudden delivery, in each of which the child dropped from the woman, and in two of them there were fissures in the parietal bones. The children recovered from the effects of the accidents. ("Med. Times and Gazette," Sept. 1860; "Am. Jour. Med. Sci.," Jan. 1861, p. 279.) Other cases of rapid delivery in the erect posture are reported in the "Lancet" (Jan. 5, 1861, p. 13). In these there was no injury to the child, although in one case the delivery took place on the deck of a vessel.

A medical witness would find no difficulty in determining the probability of this explanation of the accidental origin of such fractures, if he were made acquainted with all the facts connected with the delivery. But the acquisition of this knowledge must be accidental; and it will in general be out of his power to obtain it. When the fractures are accompanied by cuts, punctures, or laceration of the scalp or face, although their production might be accounted for by an alleged fall during parturition, the cause of these wounds would still remain to be explained.

In fractures of the bones of the head in new-born children, the presence of effusions of blood on the outside of the skull, or on the membranes within, is one of the most common appearances. Effusions of blood beneath the skin of the scalp are by no means uncommon in new-born children, and are not necessarily indicative of criminal violence. Each case, however, must be decided by the circumstances attending it. Effusions on the membranes and in the substance of the brain are generally the results of great violence to the head.

Twisting of the Neck.—Children are sometimes destroyed in the act

of birth by the neck being forcibly twisted, whereby a displacement of the cervical vertebræ, with injury to the spinal marrow, may occur, and destroy life. Such injuries are immediately discovered by an examination of the body. It should be remembered that the neck of a child is very short, and that it always possesses considerable mobility.

Violence in Self-Delivery.—When the marks of violence found on the head, neck, or body of a child cannot be easily referred to uterine action or to an accidental fall, it is common to ascribe them to the efforts made by a woman in her attempts to deliver herself—the destruction of the child being an accidental result of these efforts. A medical opinion in such cases must depend upon the nature, situation and extent of the injuries; and each case must be therefore decided by the circumstances attending it. A medical witness, however, should always be prepared to allow that a woman at the time of her delivery, owing to pain and anxiety may be deprived of all judgment, and may destroy her offspring without being conscious of what she is doing. It is therefore a sound principle of law that mere appearances of violence on a child's body are not *per se* sufficient, unless there is some evidence to show that the violence was knowingly and intentionally inflicted or the appearances are of such a kind as of themselves to indicate intentional murder. (Alison.) But, judging from cases which have hitherto occurred, it would be difficult to suggest any appearances which would be considered by a jury to indicate murderous violence.

Power of Exertion in Recently-delivered Women.—On these occasions, a witness will often find himself questioned respecting the strength or capability for exertion evinced by the lower class of women shortly after childbirth. Dr. Alison remarks that many respectable medical practitioners, judging only from what they have observed among the higher ranks, are liable to be led into an erroneous opinion, which may affect their evidence. He mentions a case, in which a woman accused of child-murder walked a distance of twenty-eight miles in a single day, with her child on her back, two or three days after her delivery. (Case of *Anderson*, Aberdeen Spring Circular, 1829.) Instances have even occurred in which women have walked six and eight miles, on the very day of their delivery, without sensible inconvenience. ("Criminal Law," p. 161.) In one case (*Smith*, Ayr Spring Circ. 1824), the woman was engaged in reaping—she retired to a little distance, effected her delivery by herself, and went on with her work for the remainder of the day, appearing only a little thinner and paler than usual. In *Reg.* v. *Stowler* (Wells Aut. Ass. 1865), two witnesses proved that the prisoner, who was tried for the murder of her child, was at work with them in a field about 800 yards from a pond in which the body was afterwards found. They left the prisoner weeding, returned in about an hour, and she was not then in the field. After a time she returned, sat on a bank, and then resumed her work. The witnesses noticed that on her return there was a great difference in her appearance. In the short interval she had been delivered, had disposed of the body of the child, and resumed her work, as if

nothing had happened. A firm resolution, with a desire to conceal her shame, may enable a woman, immediately after her delivery, to perform acts connected with the disposal of the body of her child which, from ordinary experience, might appear to be far beyond her strength.

Conclusions.—The conclusions to be derived from the contents of this chapter are:—

1. That a new-born child may die from violent causes of an accidental nature.
2. That some forms of violent death are not necessarily attended with external signs indicative of violence.
3. That a child may be accidentally suffocated during delivery.
4. That the usual marks of death from suffocation or drowning are not apparent, except in the bodies of children which have breathed.
5. That the state of the umbilical cord may often furnish important evidence.
6. That some females recently delivered may have strength to exert themselves and walk a great distance.
7. That a new-born child may speedily die from exposure to cold or from want of food.
8. That slight fractures of the bones of the cranium may arise from the action of the uterus on the head of the child during delivery.
9. That women may be unexpectedly delivered while in an erect posture; the umbilical cord is under these circumstances sometimes ruptured, and the child may sustain injury by the fall.
10. That the violence found on the body of a child may be sometimes referred to attempts innocently made by a female to aid her delivery.

CHAPTER LI.

DEATH OF THE CHILD FROM STRANGULATION.—STRANGULATION BY THE NAVEL-STRING.—ACCIDENTAL MARKS RESEMBLING THOSE OF STRANGULATION.—CONSTRICTION BEFORE AND AFTER DEATH.—BEFORE AND AFTER BREATHING.—BEFORE AND AFTER THE SEVERANCE OF THE NAVEL-STRING.—EXAMINATION OF THE MOTHER.

AMONG the forms of violent death which are generally attended with appearances indicative of criminal design are the following:—

7. *Strangulation.*—The destruction of a new-born child by strangulation is not an unfrequent form of child-murder; and here a medical jurist has to encounter the difficulty, that the strangulation may have been accidentally produced by the twisting of the umbilical cord round the neck during delivery. We must not hastily conclude, from the red and swollen appearance of the head and face of a child when found dead, that it has been destroyed by strangulation.

There is no doubt that errors were formerly made with respect to this appearance; for Dr. Hunter observes:—"When a child's head or face looks swollen, and is very red or black, the vulgar, because hanged people look so, are apt to conclude that it must have been strangled. But those who are in the practice of midwifery know that there is nothing more common in natural births, and that the swelling and deep color go gradually off if the child lives but a few days. This appearance is particularly observable in those cases where the navel-string happens to gird the child's neck, and where its head happens to be born some time before its body. (Op. cit. p. 27.)

Strangulation by the *navel-string* can of course refer to those cases only in which it becomes firmly twisted round the neck *after* the child has breathed. This is rather a rare occurrence, because under these circumstances death more commonly takes place by compression of the cord, and by the consequent arrest of circulation before the act of breathing is performed. The only internal appearance met with in death from this cause is a congested state of the cerebral vessels. The presence of ecchymosis on the scalp, as well as of lividity of the face, is very common in new-born children when the labor has been tedious and difficult; and therefore, unless there were some distinct marks of pressure about the neck, with a protrusion of the tongue, such appearances would not justify any suspicion of death from strangulation.

It has been supposed, that the strangulation produced by the wilful application of any extraneous constricting force to the neck, would be known from the accidental strangulation caused by the cord, by the fact that in the former case there would be a livid or ecchymosed mark or depression on the neck, while in the latter there would not. Severe violence to the neck of a new-born child may produce in the seat of constriction not only ecchymosis but a laceration of the skin, muscles, and windpipe; but these appearances are not always present in homicidal strangulation. In April, 1861, Dr. Evans, of Sunderland, communicated to me the particulars of the case of a new-born child which had been destroyed by strangulation. Great violence had been used, but there was no trace of discoloration in the course of the ligature, or of ecchymosis in the tissues beneath. The muscles compressed were very dark in color. In most cases when a ligature is applied to the neck during life the skin above and below it becomes much swollen, and presents an œdematous character. This indicates an application of violence when there is still some vital power in the body of the child. The navel-string itself may be used as a means of constriction, and the mark or depression may sometimes present an appearance of ecchymosis. Among various cases which might be quoted in support of this statement, is the following, reported by Mr. Foster. In April, 1846, he was summoned to attend a lady in labor with her first child. The labor was of a lingering kind, owing to the size of the head; and the child came into the world dead. The navel-string was found coiled three times round the neck, passing under the right

armpit; and upon removing it *three parallel discolored depressions* were distinctly evident. These extended completely round the neck, and corresponded to the course taken by the coils. The child appeared as if it had been strangled. ("Med. Gaz." vol. 37, p. 485.) Had this child been born secretly, this state of the neck might have created a strong suspicion of homicidal violence. Strangulation after birth could not, however, have been alleged, because there would have been no proof of respiration. When a blue mark is found on the neck of a child whose lungs retain their fœtal characters, it is fair to presume, cæteris paribus, that it has been accidentally occasioned by the twisting of the umbilical cord during delivery. Mr. Price has communicated to the same journal the account of a case in which the cord, which was short, was so tightly twisted around the neck of a child, that he was compelled to divide it before delivery could be accomplished. There was in this instance a deep groove formed on the neck, conveying the impression to himself and a medical friend that, in the absence of any knowledge of the facts, they would have been prepared to say that the child had been wilfully strangled by a rope. ("Med. Gaz." vol. 38, p. 40.) A diagnosis might have been formed, as in the preceding case, by examining the state of the lungs. Dr. Mutter met with a case in which a child was born dead, and the cord was tightly twisted round its neck; when removed, the neck exhibited a livid circle of a finger's breadth, smooth and shining: but on cutting into this mark, no ecchymosis was found. ("North. Jour. Med." Jan. 1845, p. 190.)

Dr. Williamson, of Leith, has directed attention to an important fact connected with the state of the lungs in a new-born child, and the medical opinions which may be expressed from their condition as furnishing evidence of live birth. Referring to Mr. Price's case, in which the cord was tightly twisted round the neck of the child, he states that in similar cases which have occurred to himself, the child has breathed immediately on the birth of the head; but, owing to the shortness of the cord, the child would have been strangled and born dead unless he had divided it. Thus, then, a child might die apparently strangled, and not be born alive, although it might have so breathed during birth that the lungs would present all the characters of respiration. If the circumstances were not known, a medical man might be led to say that the child had been born alive, and had been destroyed by strangulation. ("Edin. Med. Jour." Feb. 1858, p. 714.) The proof of respiration, as it has been elsewhere stated, is, however, not necessarily a proof of live birth.

From these cases it will be perceived that ecchymosis in the depression on the neck furnishes no distinction between constriction produced by criminal means, and that which may result accidentally from the navel-string. In the following case ("Ann. d'Hyg." 1841, vol. 1, p. 127), a woman charged with the murder of her child by strangulation appears to have been unjustly condemned. The child had fully and perfectly breathed; the lungs weighed one thousand grains, and when divided, every portion floated on water, even after firm compression. There was a circular depression on the neck,

which was superficially ecchymosed in some parts. From an investigation of the facts, this appeared to have been a case in which a mark on the neck was accidentally produced by the umbilical cord, during attempts at self-delivery on the part of the woman; she was nevertheless convicted and condemned to a severe punishment, chiefly from the opinion expressed by two medical witnesses, that a soft and yielding substance like the umbilical cord could *not* produce a depression and ecchymosis on the neck of a child during birth. They attributed the mark to the wilful application of a ligature like a garter; but the experiments of Dr. Négrier clearly show that the umbilical cord has sufficient strength to produce fatal constriction.

In the same volume of the "Annales d'Hygiène," (at p. 428,) will be found the report of another case, suggesting many important reflections in regard to the medical jurisprudence of infanticide. In this instance the navel-string and the membranes were actually used by the female as a means of strangulation; the child had not breathed, but was thereby prevented from breathing. There was superficial ecchymosis on each side over the muscles of the neck. The defence was, that the child was born with the cord around its neck, and that it was from this circumstance accidentally strangled; but the medical evidence tended to show that the cord had been violently stretched and employed as a means of strangulation. The child had *not breathed*, and the medical witnesses considered that it had been born dead, owing to the violence used by the woman. The cause of death here was certainly not strangulation, but arrested circulation. In the meantime, the case proves that ecchymosis (a blue mark) may be the result of violent constriction produced by the navel-string. A case occurred to Mr. M'Cann, in September, 1838, in which the navel-string, which was of its full length, had been used as the means of strangulation. It was twisted once round the neck, passed under the left arm, over the shoulders, and round the neck again, forming a noose or knot, which, pressing upon the throat, must have caused strangulation, as the tongue was protruded, and there were other clear indications of the child having been strangled. The hydrostatic test applied to the lungs proved that respiration had been performed.

When the mark on the neck is deep, broad, much ecchymosed, and there is extravasation of blood beneath, with injury to the muscles or trachea, and ruffling or laceration of the skin, it is impossible to attribute these appearances to accidental compression by the navel-string. The lividity produced by it in the cases hitherto observed has been only slight and partial, and unaccompanied by laceration of the skin, or injury to deep seated parts. On the other hand, in homicidal strangulation, as much more violence is commonly used than is necessary for destroying life, we may expect to find great ecchymosis and extensive injury to the surrounding soft parts. On some occasions all difficulty is removed by the discovery of a rope, tape, or ligature, tied tightly round the neck; or, if this be not found, the proofs of some ligature having been used will be discovered in

the indentations or irregularly-ecchymosed spots left on the skin; the depressed portions of skin being generally white, and the raised edges livid or œdematous.

It has been doubted whether a child can be born with the navel-string so tightly round the neck as to produce great depression of the skin and ecchymosis, *i. e.*, to simulate homicidal strangulation, and at the same time perform the act of respiration fully and completely. It is important, therefore, when this hypothesis is raised in order to account for a suspicious mark on the neck, to examine closely the state of the lungs. Unless the cord be designedly put round the neck of the child *after* the head has protruded, the effect of the expulsive efforts of the uterus, when a coil has become *accidentally* twisted round the neck, would be to tighten the cord, compress the vessels, and kill the child by arresting the maternal circulation, at the same time that this pressure would effectually prevent the act of breathing. Hence the lungs usually present the appearances met with in still-born children generally; but the case which occurred to Dr. Williamson (p. 524) shows that this state of things may sometimes occur, and that a child may breathe, and die strangled by the umbilical cord before its body is entirely born. Medical witnesses, however, should not be too ready to accept such a suggestion; a careful examination of the neck will show whether a ligature has or has not been wilfully applied after birth. In *Reg.* v. *Robinson* (Lewes Summer Assizes, 1853), there was around the neck, the mark of a ligature which had been *tied very tightly*. The child had fully breathed, and according to the medical evidence it had died from strangulation, owing to an accidental twisting of the cord during delivery. In examining a suspicious mark on the neck of a new-born infant, it is proper to notice whether it does not, by its form or course, present some peculiar indentations which may render it certain that a ligature has been wilfully employed after birth. When it is found that a child has fully breathed, the presence of a deeply-ecchymosed or an œdematous mark on the neck with injury to the skin and muscles is, cæteris paribus, presumptive of homicidal strangulation. Death from accidental constriction of the cord during delivery should, as a general rule, leave the lungs in their fœtal condition.

Marks on the neck of a child may be accidentally produced by the navel-string without necessarily destroying the child's life. Two cases of this kind are reported by Professor Busch ("Brit. and For. Med. Rev." vol. 10, p. 579): and a child may be destroyed without ecchymosis being a necessary consequence of the constriction produced by it. There is much less risk of strangulation from twisting of the cord during birth than is commonly believed. Out of 190 cases Dr. Churchill found the cord round the neck in fifty-two children, and the shortest cord so disposed was eighteen inches long; Dr. Négrier found it round the neck in twenty cases out of 166 natural labors. ("Ann. d'Hyg." 1841, vol. 1, p. 137.)

The *appearances* met with in the body in death from strangulation have been elsewhere fully considered (p. 354.) The facts of a case

communicated to me, in March, 1865, by Mr. Cann of Dawlish will, however, serve to show the appearances as they may present themselves in a new-born child. A maid-servant in a family was secretly delivered of a child. When the body was found, it was observed to be full-grown, and there was a piece of tape twice round the neck, which had been tied tightly in a bow. The tongue protruded between the lips; two deep furrows were found round the neck after the removal of the tape; there was great œdema with swelling of the skin between and above them, and the right hand was clenched. The lungs were of a light-red color; they filled the chest, were highly crepitant, and floated readily on water, even when divided into sixteen pieces, and these had been submitted to strong pressure. They weighed, however, only 626 grains. The heart was healthy: the right side contained some coagula of blood—the left side was empty; the foramen ovale was open. The scalp was much congested, the congestions almost amounting to small effusions of blood; the pia mater was also congested. The inferences drawn from these facts were, that the child had been born alive, and that it had died from strangulation. The lungs were as light as they usually are in the fœtal state, showing that, although they had received air, the pulmonary circulation had not been perfectly established.

Accidental Marks resembling those of Strangulation.—In the fore part of the neck of a child a mark or depression is sometimes accidentally produced by forcibly bending the head forwards on the chest, especially when this has been done repeatedly and recently after death, while the body is warm. It may occur, also, as an accident during labor. Such a mark must not be mistaken for the effect of homicidal violence. It has been a question whether, independently of the constriction produced by the umbilical cord, the neck of the uterus might not cause, during its contractions, an ecchymosed mark on the neck. I am not aware that there is any case reported which bears out this view; and it seems highly improbable that any such result should follow.

The discoloration may be in detached spots or patches—situated in the fore part of the neck, and evidently not arising from the employment of any ligature. These marks may depend on the forcible application of the fingers to the fore part of the neck of the child, and the indentations have been known to correspond—a fact which has at once led to a suspicion of the cause of pressure and the mode of death. At the same time it should be born in mind that a superficial mottling of the skin occurs after death in new-born infants, in parts where moderate pressure only may have been accidentally produced. This would not be attended with ecchymosis, and its true nature would be at once determined by comparing the discolored spots with the surrounding skin. It may be alleged, in defence, that such marks might have been accidentally produced: 1. By the forcible pressure produced by the child's head during labor. 2. They will be more commonly referred to violent attempts made by a woman at self-delivery, during a paroxysm of pain. This explanation is admissible, so long as it is confined to injuries which, by

any reasonable construction, might be caused during labor; but supposing the marks to have been certainly produced after the complete birth of the body, it will not of course apply.

Among marks simulating violence, which are sometimes found on the necks of new-born children, Mr. Harvey has pointed out one of a singular kind. In February, 1846, he was present at a delivery in which a child was expelled rather suddenly; and after making two or three convulsive gasps, it died. Whilst endeavoring to restore animation, he observed a bright-red mark extending completely across the upper and fore part of the neck, from one angle of the lower jaw to the other, as though it had been produced by strangulation with a cord, except that the mark was not continued round to the back of the neck. It was of a vivid red color, and not like a bruise or ecchymosis, but it had very much the appearance of a recent excoriation. It was most clearly defined in front, where it was about a quarter of an inch in breadth, and it became diffused at the sides. The face was not swollen, and there was no fulness of the veins. ("Med. Gaz." vol. 39, p. 379.) A distinction in this instance might have been based upon the color of the mark, the uninjured state of the cuticle, and the absence of congestion of the face and venous system. Nevertheless, the fact is of some importance, and should be borne in mind during the examination of the body of a new-born child alleged to have been strangled. Another case, which was the subject of a coroner's inquest, was published by Mr. Rose in the same journal (vol. 37, p. 530), in which red marks on each side of the nose of a new-born child were mistaken for the effects of violence applied to the nostrils during a supposed attempt at suffocation. Mr. Rose examined them closely, and considered that they were nævi (mother's marks), and had nothing to do with the death of the infant.

A medical witness may be asked on these occasions, whether he will undertake to swear that the ligature or the fingers had been applied to the neck of a child before or after its death, or before or after it had breathed. It is proper to observe that, so far as external marks of strangulation are concerned, there is no difference in the appearances, whether the constriction takes place during life, or immediately after death while the body is warm. Casper's experiments render it highly probable, that when a constricting force is applied to the neck of a dead child, at any time *within an hour* after death, the marks cannot with certainty be distinguished by any appearance from those made on a living body. ("Wochenschrift," Jan. 1837; see also p. 344, ante.) With regard to the second point, it may be stated, that whether the child has breathed or not, provided it be *living* and the blood circulating, marks of violence on the neck will present precisely the same characters.

In the absence of any visible discoloration of the skin, it may be a question whether this should be taken as evidence of the means of constriction not having been applied during life. What we are entitled to say from observed facts is, that ecchymosis from the ligature is not a necessary consequence of constriction either in a living

or a recently dead child: although we might expect that there would be few cases of deliberate child-murder in which when strangulation was resorted to, there would not be some ecchymosed mark or discoloration, chiefly from the presumption that great and unnecessary force is suddenly applied. Besides, it is not improbable that a slighter force would cause ecchymosis on the skin of a new-born infant than would be required to produce such an appearance on that of an adult.

Another question has been put which the proposed change in the statute law will hereafter exclude—namely, whether a medical witness will undertake to say that the constricting force had not been applied to the neck of the child until after its body had been entirely born. This, of course, must be a pure matter of speculation. The appearance caused by a ligature applied to the neck of a *living* child would not be different whether the child was partially or entirely born. If the child has actually breathed, the appearances in the body would be the same, and there are no medical facts by which it could be determined whether the act of strangulation proved fatal during birth or afterwards. A medical witness has also had this question put to him: Whether the strangulation occurred before or after the navel-string was severed. It would appear that the severance of the cord has been sometimes regarded in law as a test of an independent circulation being established in the child; but this is obviously an error, depending on the want of proper information respecting the phenomena which accompany birth. Respiration, and therefore an independent circulation, may take place *before* the cord is divided; and its severance, which is never likely to occur until after entire birth, cannot consequently be considered as a boundary between a child which is really born alive, and one which is born dead. A premature severance might possibly endanger the life of a child, instead of giving it an independent existence. A healthy and vigorous child may continue to live, and breathe independently of the mother, before the division of the cord, and the time at which the severance is made depends on mere accident. Hence the marks of strangulation on the neck of a living and breathing child must be the same whether the cord has been divided or not. The entire birth of the body is, however, now considered to be complete although the navel-string has not been divided.

8. *Poisoning.*—This is placed among the possible means of perpetrating child-murder, but we rarely hear of *new-born* children being thus destroyed. The earliest age at which I have known a trial to take place for the murder of a child by poison was two months. (*Rex* v. *South*, Norf. Aut. Circ., 1834.) A quantity of arsenic was given to an infant, and it died in three hours and a quarter after the administration of the poison. At this age the case can scarcely be called one of infanticide in a medico-legal signification, because all that it would be necessary to prove would be the cause of death; the question of life or live birth would not require to be entered into. If, in a case of child-murder, death from poison should be suspected, it must be sought for in the usual way. Some cases have

occurred, in which children have been wilfully destroyed a week or two after birth, by the administration of opium or excessive doses of purgative medicine. Oil of vitriol has been also used.

In cases in which infants are destroyed by poison, there is generally great difficulty in tracing the act of administration to the guilty person. The fluid food given to them renders the admixture of poison easy, and as many persons may have access to this food, it is often impossible to fix upon the criminal. In one instance which came to my knowledge, an illegitimate child had been placed out to nurse by its mother, a woman in good social position. It was noticed that after each visit paid by the mother the child was sick, and after repeated attacks of illness, the child died. On inspection arsenic was found in the body, and this was beyond doubt the cause of death. There was no suspicion against the nurse; but a strong suspicion fell on the mother, from the circumstances above mentioned. There was evidence, however, that the child was not at any time fed by the mother when she visited it, and that the mother had no access to the child's food. No poison could be traced to her possession, and she was not seen by the nurse, who was present, to give anything to the infant. The only fact that transpired was that, at each visit, she took it in her arms and was observed to rub its gums with her fingers, and soon after her visits, sickness followed. There was reason to believe that she had concealed small quantities of arsenic under her finger-nails, and that she had administered the poison while rubbing the gums of the child!

Examination of the Mother.—The duties of a medical practitioner, so far as they relate to the *mother* of the child, generally the accused party, are slight. He may be required to prove, by an examination made under an order from proper authority, whether a woman has or has not been recently delivered of a child, and to state the probable period at which the delivery took place. (See DELIVERY, p. 431.) This examination may be necessary in order to connect her delivery with the period which may have elapsed since the birth and death of the child. Unless the examination of the woman be made within twelve or fifteen days, no satisfactory evidence can in general be obtained. It has happened, on more than one occasion, that medical men have assumed to themselves the right of enforcing an examination of a suspected woman, and, by threats or otherwise, have compelled her to undergo this. Such a course of conduct is in the highest degree indecent and improper: if a woman willingly consents to an examination, or an order be obtained from a magistrate or other official person, the case is different. In taking this authority upon himself, a medical man is forcibly compelling an accused party to produce positive proof of her guilt—a principle which is entirely opposed to the spirit and practice of English jurisprudence. The mischievous results of such officiousness on the part of a medical practitioner are well illustrated by the case of *Weir and wife* v. *Hodgson* (Liverpool Winter Assizes, 1861). The dead body of a child had been found near the house of the plaintiff. The defendant, a surgeon, went with the inspectors of police to see Mrs. Weir;

and, having informed her that she was suspected of having had a child, told her that he had come to examine her by the authority of the law, and that she must submit. She refused at first, and proposed to send for a medical man whom she knew. In the end the defendant examined her, and there was no ground for the charge. The jury returned a verdict of 200*l.* damages for the assault. The police can give no legal power to a medical man to make such an examination in a suspected case, and the ultimate consent of the woman, if extorted by threats or intimidation, will be no answer to a charge of assault.

Conclusions.—The following conclusions may be drawn from the preceding remarks:—

1. That congestion of the face and head in a new-born child is not a proof of death from strangulation.
2. That strangulation can take place only in children which have breathed.
3. That a child may be strangled during birth by the accidental twisting of the navel-string round its neck.
4. That the navel-string may produce a livid or ecchymosed depression on the neck, like any other ligature.
5. The marks on the neck, arising from accidental causes, may resemble those which arise from strangulation.
6. That the effect of constriction on the neck, either by the navel-string or any other ligature, is the same if the child be *living*, whether it has or has not breathed.
7. That the effect is the same whether the child has been *partially* or *entirely* born.
8. That the effect of a ligature on the neck of a *living* child is the same, whether the navel-string has or has not been severed.
9. That a new-born child may die from strangulation, without this fact being necessarily indicated by ecchymosis on the neck. This depends on the nature of the ligature, and the amount of force used.

BIRTH. INHERITANCE.

CHAPTER LII.

LIVE BIRTH IN CIVIL CASES.—DATE OF BIRTH.—SIGNS OF LIVE BIRTH INDEPENDENTLY OF RESPIRATION OR CRYING.—VAGITUS UTERINUS.—TENANCY BY COURTESY.—LEGAL BIRTH.—POST-MORTEM BIRTHS.—MINORITY AND MAJORITY.—PLURAL AND MONSTROUS BIRTHS.

Date of Birth.—Medical evidence has occasionally been demanded in courts of law respecting the actual date of birth in those cases in which a period of a few days, hours, or even minutes was required

to prove the attainment of majority—and therefore a legal responsibility for the performance of civil contracts into which the parties had entered, either knowingly or ignorantly, when minors. Some such cases have been decided by the evidence of the accoucheur himself—others, when the accoucheur was dead, by the production of his case-books; and it is worthy of notice that the strictness and punctuality of some medical practitioners, in making written memoranda of cases attended by them, have in more than one instance led to a satisfactory settlement of such suits, and the avoidance of further litigation. The proof of the exact date of birth is also of considerable importance in certain cases of contested legitimacy.

The medico-legal questions connected with this subject are those which arise in contested suits relative to succession or the inheritance of property. A child that is born alive, or has come *entirely* into the world in a *living* state, may by the English law inherit and transmit property to its heirs, even although its death has immediately, and perhaps from morbid causes necessarily, followed its birth. Should the child be born dead, whether it died in the womb or during the act of birth, it does not acquire any civil rights; for it is not regarded as a life in being, unless it manifests some sign of life *after* it is entirely born and separated from the mother. Some have considered that *partial birth*, provided a child is living, should suffice to confer the same rights on the offspring as the proof of entire birth; but great difficulty might arise in civil cases, if the bare extrusion of a *part* of the body sufficed for all the legal purposes of *entire* birth. It might become a casuistical question, as to how much of the body should be in the world in order to constitute legal birth; for there is no reason why, in a medical view, the extrusion of the head and shoulders should constitute birth any more than the extrusion of a hand or a foot. If it be said that the act of breathing should be combined with a partial extrusion of the body, this would be unjust; because a child is alive—its heart is evidently pulsating, and its blood circulating, as freely before the act of breathing as afterwards. Besides, it is admitted that children may be born alive, and live for some time without respiring; and this want of respiration is no objection to these children being considered living in law. In a case referred to hereafter, a child was pronounced to have been legally born alive, although it had certainly not respired; and that a child may manifest life for a certain time without leaving in its body any evidence of respiration is clear from numerous reported cases (p. 476). If, then, proof of respiration be not demanded in cases of entire, it could scarcely be required in cases of partial birth. In the event of partial being treated as synonymous with entire birth, there would be no end to litigation; and medical opinions would vary in every case. It is doubtful whether, under such circumstances, the law could be administered with any degree of certainty or impartiality. Admitting, then, that a child must be *entirely* born in order that it should acquire civil rights, it will next be necessary to examine the proofs required to show that it has been *born alive* in a legal sense. The question here is different from that

of live birth in reference to child-murder. We must presume that a practitioner is present at a delivery in which a child is born in a doubtful state, or where its death speedily follows its birth. The civil rights of the child and its heirs will depend upon the careful observation, made by a practitioner, of the circumstances attending the delivery. It is proper that he should note when the birth is completed, by the body of the child being entirely out of the body of the mother. Children born at or about midnight are liable to have the date of birth wrongly registered; and the legal difference of twenty-four hours, which a few seconds or minutes may make, may hereafter affect their own rights if they survive, or those of others if they die.

Signs of Live Birth Independently of Respiration or Crying.—The visible respiration of a child after its birth, or as it may be manifested by its *crying*, is an undoubted sign of its having been born alive; but, as it has just been stated, a child may acquire its civil rights, although it may be neither seen to breathe nor heard to cry. The pulsation of a child's heart, or even the spasmodic twitching of any of the muscles of the body, has been regarded as a satisfactory proof of live birth. The latter sign has been judicially so pronounced—à fortiori, therefore, the motion of a limb will be considered sufficient legal evidence, in an English court of law, of life after birth. It is to be observed that the length of time during which these signs of life continue after a child is born is wholly immaterial; all that is required to be established is, that they were positively manifested. A child which survives entire birth for a single instant acquires the same civil rights as if it had continued to live for a month or longer.

A late eminent Scotch judge informed me that in Scotland the husband's right of courtesy, or life-rent in his wife's estate, depends on there having been a child of the marriage born alive; and for the proof of live birth it is required to be shown, not merely that it had breathed, but that the child had cried after it was born. (Case of *Dobie* v. *Richardson*, Court of Sessions, 1765.) The last case of this kind came before the courts in 1833, and by a majority their lordships adhered to the old dicta of the law, and decided that the only receivable proof of life in such a case was that the child had *cried*. The fact that the child was capable of motion, and that it had breathed for three-quarters of an hour, was held not to be a sufficient proof to establish life unless it had cried! There is reason to believe that, in any future case, this will not be taken as a precedent. The attainment of greater knowledge on the nature and the proofs of life from the results of medical experience and observation, and the fact that these questions have become more generally known and better understood, will probably lead to a different decision. That there should not be a power of proving life (when the death of a child takes place speedily after birth), except by direct evidence that the child has cried, is in truth a view of the matter wholly indefensible. The crying of a child is not necessarily a sign of live birth, for it may cry during the act of birth, and die

before its body is born; while the fact that it breathes and moves after birth, although from accidental circumstances it may not cry, is unexceptionable evidence of its having been born alive.

In *Brock* v. *Kellock* (April, 1861,) involving a claim by the widow to the estate of her husband, on the ground that a child born twenty years before had been born living, although it was at first supposed to have been still-born, Stuart, V. C., decided that proof of breathing was not necessary, and held that there was sufficient legal evidence of life after birth in the pulsations observed by the accoucheur. This decision is in accordance with law and common-sense. Pulsations indicate an independent action of the fœtal heart, as much as a motion of the chest indicates an action of the intercostal muscles. Why it should be maintained that there is life with contractility of the intercostal muscles, but not with a contractile power of the heart, is not apparent; that this view is not in accordance with facts, is however proved by several cases which are described under INFANTICIDE. (p. 476.)

There is no doubt that the best test to apply to such cases for the determination of *physiological* life is *auscultation.* The beating of the heart, as determined by the ear or the stethoscope, applied even for five consecutive minutes, is an undoubted sign of life, in a physiological sense, whether the child breathes, cries, or moves. M. Bouchut noticed, on one occasion, that this kind of passive life continued in an infant for twenty-three hours after its birth. Feeble but distinct pulsations were heard at long intervals, but there was no motion of the ribs. Attempts at resuscitation were made, but the motions of the heart became more and more feeble, until they entirely ceased. An examination showed that the lungs had not received air. As we take the cessation of the heart's action to be the only certain evidence of death, so the existence of pulsations in the heart or arteries, when clearly perceived by the ear, stethoscope, or finger, is positive evidence of life in a physiological sense. Is this *legal* life? Would the wilful destruction of such a child constitute murder? Would this proof of pulsation without muscular motion, respiration, crying, or any other sign of active life confer tenancy by courtesy, or transfer an estate by inheritance or survivorship? M. Bouchut justly observes that apparent death succeeding to birth, and characterized by the presence of a beating of the heart and an absence of respiration, is only a diseased condition of the new-born child (see "Atelectasis," p. 480); and, whether it is cured of this or dies, it is living, although it has not breathed—or, as a German jurist remarks, "*Scheintod ist Scheinleben.*" By taking away its rights of succession, the law punishes the child and its heirs for a malady with which it is born ("Gaz. des Hôp." 1855, No. 124; and "Med. Times and Gaz." Aug. 19, 1856.) They who contend that crying or breathing alone should be taken as a sign of life after birth, would of course pronounce such a child to have been born *dead*, even at the time that they might be listening to the pulsations of its heart! (Casper "Klinische Novellen," 1863, p. 564). Such pulsations would probably be referred by them to the remains of uterine life of which the law takes no cognizance.

Vagitus Uterinus.—Let us suppose that the evidence of a child having been born alive is stated to be that it was heard to cry—it may be a question for a medical witness, in cross-examination, whether this is to be taken as an absolute proof of live birth. The answer must be in the negative, because a child may cry before its body is entirely born; or there may have been what is called *vagitus uterinus*—a uterine cry after the rupture of the membranes. (See INFANTICIDE.) It is quite certain that a child may breathe without crying, but it cannot cry without breathing; yet neither the crying nor the breathing is a necessary proof that the child was actually born alive. As in all cases of this description there must be eye-witnesses, either professional or not—the evidence will not rest solely upon a mere medical possibility of the occurrence of such a cry before birth; and proof will then be required of the crying of the child *after* it was born. The determination of the momentary existence of children after birth is of importance in a legal point of view in reference to the subject of Tenancy by Courtesy.

Tenancy by Courtesy.—This signifies, according to Blackstone ("Com." vol. 2, p. 426), a tenant by the courts of England. If a married woman possessed of estate die, the estate passes from her husband to her heir-at-law, unless there has been a child born *living* of the marriage, [capable of inheriting the estate] in which case the husband acquires a life-interest in the property. The only defence of this singular custom is, that it is of great antiquity. An unsuccessful attempt was made a few years since to substitute for it the reasonable provision, that the marriage should entitle the husband to a right, which he can now only acquire by the fulfilment of certain accidental conditions. Incurable sterility, a protracted labor, deformity in the pelvis of the wife, or the necessary performance of craniotomy on a healthy well-formed child, may, under this custom, lead to an aversion of the inheritance. The tenancy, in contested cases, is generally established or disproved by medical evidence; and the following are the conditions which the law requires in order that the right should exist:

1. The child must be born *alive.* Cases have been already referred to in which the motion of a lip and the pulsations of the umbilical cord were held to be sufficient legal proofs of live birth. Some physiologists have objected to these as inadequate proofs of life in a medical sense; and if the question were one of pure physiology, and not of law, there might be some ground for the objection. In truth, however, the law does not require proof of *active* life in a child, but merely some evidence, however slight, that it has been born *living;* and the amount of proof to satisfy the purposes of justice, must of course rest not with physiologists, but with the expounders of the law.

The *crying* of a child, properly attested by disinterested witnesses, has been held in cases of disputed tenancy to be sufficient evidence of live birth; this is, in fact, one of the tests given by Lord Coke. At page 480, some cases are related in which new-born children survived birth several hours, but manifested no sign of active life either

by crying or in any other mode, and after death there was no air in the lungs. As in cases of infanticide, if the evidence of live birth rests entirely on an examination after death, the absence of air from the lungs will not necessarily show that a child has come into the world dead, nor will the presence of air in these organs prove that it has been born alive, because it may have breathed and died before birth. The child must be heard to cry, or be seen to breathe or move after birth. The fact that the lungs are not distended with air, and that they immediately sink in water, either when entire or when divided into small pieces, is no proof that a child has not breathed and cried during birth and afterwards. In a case which occurred to Dr. Vernon (p. 481), the child had only reached the sixth month, but it was strong enough to cry; and yet, probably, had its history been unknown, a medical witness would have been prepared to state, from an examination of the lungs, which contained no air, and sank in water, that it must have been born dead, and certainly could not have had the power of uttering a cry! A child born at the fifth month has been known to cry; but the state of its lungs is not recorded. In the case of *Gardner* v. *Llewellyn* (1856), a medical witness who appeared for the plaintiff stated as his belief that a child born at the fifth month could *not respire*, and if it could not breathe (so as to fill the lungs) it could not cry! This may have been consistent with his experience, but it is not consistent with facts observed by others. One of the greatest difficulties that lawyers have to contend with in getting at medical truth, is this strong disposition on the part of witnesses to act upon a foregone conclusion, and to "fix" all natural events by an exclusive reference to their individual experience.

2. The child must be *born* while the *mother* is *living*. From this it appears that if a living child were removed from the outlet, or extracted from the uterus by the Cæsarean operation after the death of the mother, the husband would not become entitled to enjoy his wife's estate; although the child might survive its removal or extraction, and succeed to the estate on attaining its majority! How such a case would be decided in the present day it is difficult to determine; but one instance is quoted by most medico-legal writers from Lord Coke, in which, about three centuries since, the decision went against the husband in consequence of the child having been removed from the uterus by the Cæsarean section *after* the death of the wife. (For a singular case involving this question in France, see "Ann. d'Hyg." 1838, vol. 1, p. 98.) In the case of *Llewellyn* (suprà) the late Baron Alderson ruled that the husband could not take the estate unless the child was proved to have been born during the marriage, *i. e.*, during the life of the woman.

Cæsarean Extraction.—The Cæsarean operation has rarely been performed in England except when a woman was actually dying or dead. A medical man wishing to perform it may find that the husband or representative of the deceased parturient woman will object to its performance, although the child may be living in the womb, and there may be a reasonable hope, by an immediate operation, of

extracting it living. The late Dr. Lever informed me that on two occasions in 1858, the husbands thus refused to allow him to operate on the dead body of the wife. I apprehend that no medical man would proceed to operate by force, or against the will of the husband; at the same time, in refusing his permission, the husband is not guilty of any legal offence. The practice on the Continent has been to undertake it while the woman was living, and the result has shown that it may be performed successfully both with regard to mother and child. Important legal consequences may hereafter ensue from a more general adoption of this practice in England in respect to deformed women. Thus, supposing in any case a child were removed alive while the woman was living, both of them dying shortly afterwards: would the husband become a tenant by the courtesy? The law says the child must be *born;* and some lawyers would find ground for arguing whether extraction by the Cæsarean operation should be regarded as "legal birth." "Illud autem valdè controversum est inter jurisconsultos, an is qui editus est, exsecto matris ventre, reputetur partus naturalis et legitimus et successionis capax." (Caranza.) According to Fonblanque, the question is settled in the affirmative—a child extracted is a child born. ("Med. Jur." vol. 1, p. 236.) Our ancient law authorities do not appear to have contemplated that the operation would ever be undertaken on a living female. The words of Lord Coke, which are considered to express the state of English law, are: "If a woman seised of lands in fee taketh husband, and by him is bigge with childe, and in her travell dyeth, and the child is ripped out of her body alive, yet shall he not be tenant by the curtesie, because the child was not born during the marriage, *nor in the life of the wife*, but in the meantime her land descended." According to Mr. Hobler, the Cæsarean operation does not divert the course of descent, or divest the husband of the life-estate, provided the child be born alive, and the mother was living when the child was born. ("Obstetric Record," vol. 3, p. 66.) *Birth*, and extraction by the Cæsarean operation, are, therefore, treated by him as similar conditions.

As a proof that this operation is not always necessary, even when circumstances may appear to call for it, the following case, mentioned by the late Sir B. Brodie as having occurred in a French hospital, is of some interest. It is that of a woman whose pelvis was considered to be too narrow for the egress of the child. As she was at the full term of gestation, the Cæsarean section was proposed; but before the operators were ready to commence, the child was expelled by the natural efforts of the uterus, or, as Sir Benjamin expressed it, "the child preferred coming into the world by the old road!" ("Lancet," Dec. 1853.) This, however, is not the only case of the kind on record. There is great reason to believe that continental practitioners are too officious in suggesting the performance of this operation, and that it has been often undertaken to the serious risk of the life of a woman, when, if left to nature, she would have done well. A case is reported to have occurred in Scotland in 1847, in which the Cæsarean operation was considered by several practitioners

of experience to be the only means by which delivery could be accomplished. Fortunately for the woman, the labor was somewhat rapid, and she was delivered of a dead child, weighing about three pounds, before the arrival of those who had considered that the operation would be required. (Ed. "Monthly Journ." July, 1847, p. 30.) The fact is, on these occasions nature often adapts means to ends in a most unexpected manner.

Medical jurists have differed respecting the period of gestation at which the operation should be performed. This would of course depend on the earliest period at which a child might be born capable of living. In reference to tenancy by courtesy, a child might be extracted alive as early as the fifth month, but it would not be likely to survive unless it were at or about the seventh month. Some have alleged, that unless the operation was performed *immediately* after the death of the mother, the child would not be extracted living. The condition of the fœtus in utero is, however, peculiar, and quite distinct from that of a child living by the act of respiration. It is possible, therefore, that there may be a limited survivorship, and that the operation may be performed so late as an hour after the death of the mother with the probability of extracting a living child.

3. The child must be born capable of inheriting; therefore, if it be a *monster* which cannot legally take an estate, the husband does not acquire a right of tenancy. There are some other legal conditions which must also be fulfilled, but these remarks are confined to that which may become matter for medical evidence. Admitting that there are legal proceedings by which the obnoxious parts of this ancient custom may be set aside during the life of the wife, it is hardly just that the knowledge of the necessity for these precautions should be left to be acquired by accident. It would be better to abolish tenancy-by-courtesy altogether, than to allow the succession of a husband to his wife's estate to rest upon a casualty of this kind.

[The issue must not only be "capable of inheriting," but "capable of inheriting its mother's estate." For example, if the mother held an estate-tail-female, the birth of issue male would not at common law give the husband his courtesy (or as it is more properly spelled *curtesy*). In Pennsylvania, by act of 8 April, 1833, § 1, art. 3, curtesy is made no longer dependent upon the *birth* of issue, provided that the issue, if any, would have inherited. Upon this subject the commissioners to revise the civil code remarked as follows: "It appears to us that the existing rule which makes the estate of the husband dependent on the circumstance of there being issue born alive capable of inheriting, has, in the present state of society and government, no sufficient or reasonable foundation. Derived, according to the better opinion, from the feudal system, and receiving no support from analogies in our own or other codes of jurisprudence, it ought, we think, long since to have shared the fate of similar provisions of that system. Besides assimilating the estate of the husband to that of the wife, in this respect, the proposed alteration will have the effect of lessening the amount of litigation by removing questions

which have sometimes occurred respecting the birth of issue and the fact of its having been born alive."—P.]

Minority and Majority.—The word *minor* is synonymous with that of *infant* (*infans*), and is applied in law to any one under the age of twenty-one years. The age of a person may render him incompetent to the performance of civil duties. Minors are frequently called upon to act as witnesses in civil and criminal cases. In rapes committed upon children, it is especially important to notice whether the prosecutrix is or is not competent to give evidence. The law has fixed no age for *testimonial* competency, and I have never heard of the question being referred to a medical practitioner. The child is always orally examined by the court, and it is soon rendered apparent by the answers whether the witness possesses a proper knowledge of the nature and obligations of an oath. If not, his or her testimony is not received, or, in a case of rape, the trial is postponed, and the child is placed under instruction, to appear again at the following sessions or assizes. The competency of a child as a witness, therefore, does not depend on age, but upon its degree of understanding. In respect to criminal responsibility as affected by age, it was held by Keating, J., in a recent case (*Reg.* v. *Cowley*, 1860), in which the prisoner, a boy aged *eight* years, was charged with felony, that up to seven years of age the law presumed that a child could not distinguish right from wrong, so as to be capable of crime; and evidence was not admissible to prove that he possessed that capacity. After the age of seven, and up to fourteen years, although the law presumed a child to be *primâ facie* incapable of crime, this presumption might be rebutted by evidence which showed that he had what was called a mischievous discretion. [The maxim in this case is "*malitia supplet ætatem.*"—P.] In the case referred to, there was no evidence of that sort, and therefore his lordship directed the jury to acquit the prisoner. In another case, tried before the same learned judge in May, 1863 (*Whitby* v. *Hodgson*), an action for trespass and false imprisonment was brought against a man for giving into custody on a charge of stealing, a boy under *six* years of age. It appeared that the child had stolen some wood; but it was held that at this age, and under *seven* years, a child was in point of law *doli incapax*, hence the defendant was not justified in giving the boy into custody. The jury returned a verdict with damages against him.

According to the principles of our law, a male at fourteen is considered to be at years of discretion, and he then becomes responsible for his actions; at twenty-one he attains majority, and is at his own disposal, and may alienate his lands, goods and chattels by deed or will. It is only when this age has been attained that an individual can be sworn to serve on a jury. The period at which a male is considered to have attained full age varies in different countries: thus, in the kingdom of Naples it was formerly fixed at eighteen years; in Holland at twenty-five; but generally throughout the States of Europe the law prescribes twenty-one years, the same as the common-law of England.

A child under fourteen indicted for murder must be proved to

have been conscious of the nature of the act. In the case of *Reg.* v. *Vamplew* (Lincoln Summer Assizes, 1862), a girl under fourteen years of age was convicted of destroying the life of a child by strychnia. It was shown that she was competent to understand the nature of the act. Under fourteen, a male infant is presumed to be incapable on the ground of incapacity, of committing a rape as a principal in the first degree, or even of committing an assault with intent to perpetrate this crime; but if the boy have a mischievous discretion, he may be convicted as a principal in the second degree. The patient may be convicted of an unnatural crime, although the agent be under fourteen. A female under the age of ten years is presumed to be incapable of consenting to sexual intercourse. ("Taylor on Evidence," vol. 1, p. 117.)

A person attains his legal majority, or is completely of age the first instant of *the day before* the twenty-first anniversary of his birthday, although forty-seven hours and fifty-nine minutes short of the complete number of days counting by hours; and this mode of calculating age and time is applicable to all other ages before and after twenty-one. This is on the principle that a part of a day is, in a legal point of view, equal to the whole of a day. A few minutes or hours may thus determine the attainment of majority, and with this the responsibility of minors for civil contracts, or the validity of their wills. By 1 Vic. c. 26, no will made by any person under the age of twenty-one years shall be valid; and as the day of a person's birth is included in the computation of his age, and there being in law no fraction of a day, a valid will may be made at any time on the day before that which is usually considered the twenty-first anniversary of birth. [The law (in general) "does not recognize fractions of a day;" that is, it does not consider the *hour* at which an event takes place, and looks upon it as the same thing whether a birth occurs upon the last or upon the first minute of the day. At the *last* moment, therefore, of the day preceding a person's twenty-first birthday, he actually completes his twenty-first year; but upon the same principle, the law looking upon the day as a unit, regards the *first* moment of it as a completion of the year, just as much as the last moment; and hence, though his birth may not have occurred until the last hour of the day on which he was born, the law regards him as of age on the first hour of the day preceding, or 48 hours earlier than in point of fact he completes his twenty-first year.—P.]

There is another aspect in which this question of age may be viewed—namely, in reference to the responsibility of accused persons for debts, or alleged criminal acts. In *Reg.* v. *Thornhill* (Stafford, Lent Assizes, 1865), the prisoner was indicted for a misdemeanor in carnally knowing and abusing one Mary Sambrook, being a girl above the age of 10 and under the age of 12 years. It appeared in evidence that the girl's birthday was on the 5th of December 1852, and the offence was alleged to have been committed on the 4th of December 1864. The question then arose whether the girl was under the age of 12 years, so as to bring the offence within the statute. It was objected by the prisoner's counsel, that as on the

5th of December the girl would enter on her 13th year, she had therefore completed her 12th year on the 4th of December, and that the law did not recognize a fraction of a day in such a case, so that she was 12 years old as much on the first hour of that day as on the last—and his lordship (Pigott, B.) so held. The indictment contained counts alleging rape and assault, but, after the cross-examination of the girl, his lordship stopped the case, and the prisoner was acquitted. It is obvious that this principle would equally apply to charges of felony for the carnal knowledge of children under 10 years of age, as well as to the misdemeanor of taking girls under the age of 16 years from the custody of their parents or of stealing children under the age of 14 years from their parents or guardians. (24 & 25 Vict. c. 100, ss. 50, 51, 55, 56.) The proof of the exact date of birth sometimes rests with the medical man.

The subject of *plural births* has been regarded as appertaining to medical jurisprudence; but I am not aware that there is any case on record in which the evidence of a medical man has been required respecting it. It is a simple question of primogeniture, which has been generally settled by the aid of depositions or declarations of old relations or servants present at the birth. Of course in the absence of eyewitnesses the question of priority of birth must be a matter of conjecture. It cannot be determined by the size or weight of the child, but it might be determined by the observation of certain marks or deformities in one or more of the children.

Monstrous Births.—The law of England has given no precise definition of what is intended by a *monster*. According to Lord Coke, it is a being "which hath not the shape of mankind; such a being cannot be heir to, or inherit land, although brought forth within marriage." A mere deformity in any part of the body, such as supernumerary fingers or toes, twisted or deformed limbs will not constitute a monster in law, so far as the succession to property is considered, provided the being still have "*human shape*." Even a supernumerary leg would not probably be allowed to avert an inheritance! but the privilege might be denied to a supernumerary head or body, or to children otherwise well-formed, but born without heads. From Lord Coke's description it is obvious that the law will be guided in its decision by the description of the monstrous birth given by a medical witness. It would not rest with a witness to say whether the being was or was not a monster—the court would draw its inference from the description given by him. Various classifications of monsters have been made, but these are of no assistance whatever to a medical jurist, because each case must be decided by the peculiarities attending it; and his duty will not be to state the class and order of the monster, but simply in what respect it differs in shape and external appearance from a normal child. But the question here presents itself—What is a normal child, or, indeed, "a child" in a legal sense? On this point conflicting decisions have been given by different judges (p. 443). All will agree that a

blighted fœtus or a mole is not a child, but a difference has arisen on the question whether the *partus* should in addition to having human shape have reached a uterine age at which it could continue to live. (See *Concealment of Birth.*) A correct definition of a normal child, therefore, is still a desideratum in law. Although a monster may not survive its birth more than a few seconds, yet if it be legally pronounced from the medical evidence to have human shape, it may transmit an estate to its heirs-at-law, as in the case of normally-formed children.

Malpositions, transpositions, or defects of the internal organs of any of the cavities do not form monstrous births within the meaning of the English law. The legal question relates only to *external* shape, not to *internal* conformation. It is well known that many internally malformed persons live to a great age; and it is not until after death that malpositions and defects of this kind are discovered. In French jurisprudence the case appears to be different; if the malposition or defect was such as to become a cause of death soon after birth, the child would be pronounced not "*viable*," and therefore incapable of acquiring civil rights. Some medical jurists have discussed the question of "*viability*" in new-born children, *i. e.*, their healthy organization with a capacity to continue to live, as if it were part of the jurisprudence of this country; but I am not aware of any facts which bear out this view. The English law does not regard *internal* monstrosity as forming a bar to civil rights; and the cases decided hitherto, show clearly that the simple question in English jurisprudence is, not whether a child (*partus*) is or is not "*viable*," but whether it has manifested any distinct sign of life after it was entirely born. The French law is much more complex, and throws a much greater degree of responsibility on French medical jurists. It is proper to state that no person is legally justified in destroying a monster at birth (p. 508).

LEGITIMACY.

CHAPTER LIII.

PRESUMPTION OF LEGITIMACY.—NATURAL PERIOD OF GESTATION.—DURATION OF PREGNANCY FROM ONE INTERCOURSE.—PREMATURE BIRTHS.—SHORT PERIODS OF GESTATION.—VIABILITY.—EARLIEST PERIOD AT WHICH A CHILD MAY BE BORN LIVING.—EVIDENCE FROM THE STATE OF THE CHILD.—PROTRACTED BIRTHS.—A PERIOD OF GESTATION NOT FIXED BY LAW.

Legal Presumption of Legitimacy.—Every child born either in lawful matrimony, or within a period after the death of the husband in accordance with the natural duration of gestation, is considered by the English law to be the child of the husband, unless the contrary be made clearly to appear by medical or moral evidence, or by both combined. [The rule at common law (and which subsisted from the time of the year books down to the early part of the last century), declared the issue of any married woman to be legitimate, except in the special cases of the impotency of the husband, and his absence from the realm. But in *Pendrell* v. *Pendrell* (Strange's Rep. 925), the absurd doctrine of making legitimacy rest entirely and exclusively upon the fact of the husband being *infra quatuor maria*, was exploded, and ever since that time the question of legitimacy or illegitimacy of the child of a married woman has been regarded as a matter of fact, resting on decided proof as to the *non-access* of the husband, and it is a question for a jury to determine (2 Kent, 210–11). In a recent case in Pennsylvania, *Dennison* v. *Page* (5 Casey, 420), where a child was born three months after marriage, which the husband instantly disclaimed, and never, during his life, recognized, it was held, that where a child is born during wedlock, of which the mother was visibly pregnant at the marriage, it is presumed, *juris et de jure*, to be the offspring of the husband, and that its illegitimacy cannot be proved by the mother after the husband's death. But see the very able dissenting opinion of Lowrie, J., 1 Grant, 377.—P.] It is only in reference to *medical* evidence that the subject of legitimacy can here be considered; but it is extremely rare to find a case of this kind determined by medical evidence alone. There are generally circumstances which show that a child whose legitimacy is disputed is the offspring of adultery, while the *medical* facts may be perfectly reconcilable with the supposition that the claimant is the child of the husband. These cases, therefore, have been repeatedly decided from

moral evidence alone—the medical evidence respecting the period of gestation or physical capacity in the parties leaving the matter in doubt. The present state of the English law on this subject appears to be this. A child born during marriage is deemed illegitimate, when, by good medical or other evidence, it was proved that it was *impossible* for the husband to be the father—whether from his being under the age of puberty, from his laboring under physical incapacity as a result of age or natural infirmity, or from the length of time which may have elapsed since he could have had intercourse, whether by reason of absence or death. When the question turns upon any of these conditions, medical science is required for its solution, and on these occasions skilled experts are usually selected by the litigants. With proof of non-access of the husband or immorality on the part of the mother, so important on these occasions, a medical witness is not in the least concerned. In cases of contested legitimacy, the English law does not regard the date of *conception* which cannot be fixed, but the date of *birth*, which can be fixed. Medical evidence may relate—1st, to the actual length of the period of gestation: this may be in a given case so short or so long, as to render it medically impossible that the husband could be the father. 2dly, there may be physical incapacity in the husband to procreate: he may be too old or too young—or he may labor under some physical defect rendering it impossible that he should be the father. 3dly, there may be sterility or incapacity in the wife, rendering it impossible that the child should be the offspring of a particular woman: in other words, the claimant may be a supposititious child.

Natural Period of Gestation. Duration from one Intercourse.—The first point to be considered is—What is the natural period of gestation, and whether this is a fixed or variable term. According to the testimony of experienced accoucheurs, the average duration of gestation in the human female is comprised between the *thirty-eighth and fortieth weeks* after conception. Numerous facts show that the greater number of children are naturally born between these two periods. Out of 186 cases reported by Dr. Murphy, the greater number of deliveries took place on the 285th day ("Obstetric Reports," 1844); but his opinion is that 301 days may be taken as the average limit of gestation. ("Lancet," Nov. 11, 1844, p. 284.) Dr. Blundell considered that the average period was 274 days; Sir J. Simpson (*Bromwich v. Waters*, Chester Lent Assizes, 1863, p. 825) 277 days, *i. e.* nine calendar months and a week; and other accoucheurs of repute have fixed upon 280 days. Among 500 cases observed by the late Dr. Reid, there were 283 in which the period of gestation was within 280 days, and 217 cases in which it went beyond this period. Dr. Duncan found, in a group of forty-six cases, that 275 days is the average interval between that which he terms "insemination" (intercourse) and parturition. The largest number of cases on any particular day was seven on the 274th day. ("Edin. Monthly Journal," 1854, vol. 9, p. 230.) The most common cause of this variation in time is, that the usual mode of calculation, by reference to the suppresion of the menstrual discharge, even in a healthy female, may lead to a possible error of

two, three, or even four weeks, since there is no sign whereby, in the majority of women, the actual time of *conception* can be determined. Some females have been able to determine, by peculiar sensations, the time at which they have conceived; but as a general rule, this must be a matter of pure conjecture when they are living in connubial intercourse.

On the other hand, accidental and isolated cases have clearly proved that a great difference naturally exists among women with respect to the period of gestation; and it is probable that in no two is it necessarily the same. When there has been only *one* intercourse, the duration of pregnancy may be certainly calculated without reference to any changes in the female constitution: for the date of conception, within certain limits to be presently mentioned, would be fixed. Observations of this kind have shown that women have differed from each other; and in several instances the time has exceeded or fallen short of the period of forty weeks, which has been usually set down as the legal limit of natural gestation. In three cases of one intercourse known to the late Dr. Rigby, labor came on in 260, 264, and 276 days, making a difference of sixteen days. ("Med. Times," March 14, 1846, p. 471.) In three other instances which were privately communicated to me by Dr. S. W. J. Merriman, labor commenced at 281, 283, and 286 days respectively after one intercourse; and in a case which occurred to Dr. Reid, the labor did not commence until after the lapse of 293 days from a single intercourse. ("Lancet," July 20, 1850, p. 79.) In another case accurately observed, communicated to me in March, 1865, the gestation lasted 281 days. Menstruation had ceased on the 16th Sept., intercourse took place on the 20th, quickening occurred on the 23d January following, and a full-grown male child was born on the 28th June following. In two cases, for which I am indebted to the late Mr. Carrington, the females were delivered respectively in 249 and 260 days after a single intercourse. In a third, in which pregnancy was the result of a rape, there was an interval of 261 days between intercourse and delivery. Hence it will be perceived that in well-observed cases, where there could be no motive for misstatement, and in which the characters of the women, some of whom were married and had already borne children, were beyond the reach of suspicion, a difference of not less than *thirty-three days* has been observed to occur.—*i. e.* between the earliest case recorded by Dr. Rigby, and the latest reported by Dr. Reid. This is worthy of remark, because in one case (*Luscombe* v. *Prettyjohn*), it was held that 299 days, only six days longer than in Dr. Reid's observation, was an *impossible* period for human gestation! In addition to the above facts, showing the variability of the period after a single intercourse, the following may be cited. Dr. Macilwain, U. S., has reported a case of gestation, which he thinks must have extended to 296 or at least 293 days. ("Amer. Journ. Med. Sci." July, 1848.) I am indebted to my colleague, Dr. Oldham, for nine cases, which have fallen under his observation, in which the duration of pregnancy from a single intercourse was accurately observed:—

Case.	Days.	Case.	Days.
1	266	6	281
2	268	7	283
3	271	8	284
4	280	9	285
5	280		

It is to be observed of these cases that Nos. 4, 5, and 6 represent the periods of gestation in the same woman at different times. Dr. Lockwood has published the following as the result of his experience. The actual duration of the term of gestation in the human subject, *i. e.*, the interval between intercourse and delivery, was ascertained by him in four cases: No. 1, aged 19, duration 272 days (first confinement); No. 2, aged 30 (first confinement), duration 276 days; No. 3, aged 17, duration 270 days; No. 4, aged 44 (seventh confinement), duration 284 days, the child weighing fourteen pounds. ("Brit. Amer. Jour." Dec. 1847, p. 214.) M. Devilliers has also published the particulars of nine cases, in which the interval from a single intercourse was accurately determined. Delivery took place at the following periods: 229, 246, 257, 267, 301, 276–281, 278–283, 270, and 266–272 days, making an extreme difference of 49 days in the earliest and the latest periods between intercourse and delivery. ("Gaz. Méd." Mars 4, 1848.)

There is reason to believe that the *date of conception* after a single intercourse varies in different women and in the same woman. It is customary for physiologists to date conception from intercourse: but the researches of Bischoff and Raciborski have shown that a variable interval may elapse, according to the situation of the ovum at the time. It has also been supposed that women conceive more readily at some periods than at others, and that intercourse had within eight to twelve days from the cessation of the menstrual discharge is more favorable to conception than at any other period. Dr. Oldham met with a case in which impregnation took place twelve days after menstruation; and he states that he has known it to occur at the respective times of ten days, twelve days, and even twenty-one days after the monthly period; and he knows of no fact to disprove the opinion that the human female is susceptible of impregnation at any time between her monthly periods. According to Dr. Duncan, a single insemination at any period of the interval between two menstrual periods may result in fecundation. ("Edin. Monthly Journal," 1854, vol. 9, p. 233.)

The experience of Dr. Oldham is confirmed by that of the late Dr. Reid. This gentleman admits that impregnation is more likely to occur immediately after the termination of a menstrual period than at any time during the interval. The next most likely period is immediately previous to the occurrence of menstruation, and the probability of conception becomes slighter as the time is more distant from this epoch; but there is no period in the menstrual interval at which impregnation may not occur. ("Lancet," Sept. 3, 1853.) According to Raciborski, from observations made in Paris on one hundred women, no more than six or seven had become impregnated at the mid-term from the menstrual periods. In several cases of

single intercourse, the dates being certain, conception took place twelve and fourteen days after menstruation. It may be therefore fairly taken as a fact, irrespective of any modern theories of ovulation, that a woman may conceive from intercourse had at the intermenstrual period (mid-period), although, in a given number of instances, it is probable that the conceptions would be more numerous within six or seven days after the cessation of the menses than at any other time.

In these cases it is assumed that intercourse and conception are synchronous, but recent physiological researches have proved that the date of *conception* is not fixed by the date of *intercourse*. The time occupied by the descent of the ovum along the Fallopian tube varies, while the time required for the passage of the male fluid to meet the ovum is also subject to variation. The investigations of Bischoff and Valentin show that the spermatozoa may retain their movements, and probably their fecundating power, for so long a period as *seven days* within the body of a female. Fecundation cannot result unless the matured ovum meets these bodies in a living condition; and conception may be regarded, in the language of Dr. Meigs, as the fixation of a fecundated ovum upon the living surface of the woman. Conception may therefore take place either in a few hours, or, according to Valentin's observations, at so long a period as seven days, after intercourse. But they do not satisfactorily explain such extreme differences as were observed in the cases of Dr. Rigby and Dr. Reid (thirty-three days), or in those of M. Devilliers (forty-nine days)—ante p. 546. We must therefore be prepared to admit, either that conception may in some cases be delayed for so long a period as from five to seven weeks after intercourse, or that there may be a difference of from five to seven weeks in the duration of pregnancy. Whatever may be the explanation adopted, it is obvious that, in a medico-legal view, the only conclusion at which we can arrive is, that the period of gestation in woman is *not*, as it was formerly supposed to be, a fixed and invariable term.

Great mistakes have arisen in the calculation of the period by the use of the word "month"—some intending by this a *lunar* and others a *calendar* month. Nine lunar months would be equal to 252 days, while the average of nine calendar months would be 270 days —the latter period varying according to the particular months of the year over which the pregnancy might extend. To prevent mistakes, or that misunderstanding of evidence which has so frequently arisen, it would be advisable that medical witnesses should always express the period of gestation in weeks or days, concerning which there can be no misunderstanding: it would be also proper to adopt the plan of always commencing the calculation from the period of the last cessation of the menses, rather than from two weeks later. The latter rule is often followed, and this discrepancy is another cause of confusion.

Premature Births.—Short Periods of Gestation.—From the preceding remarks we may regard all births before the thirty-eighth week as premature, and all those which occur after the fortieth week as pro-

tracted cases; and one great point for a medical witness to determine is, whether the external characters presented by a child correspond to those which it should present, supposing it to be legitimately born. When the birth is premature, this sort of corroborative evidence may be sometimes obtained; because, assuming that there has been no access between the parties before marriage, children born at the fifth or sixth month after marriage cannot, if the offspring of the husband, present the characters of those born at the full period. It is not so with protracted births, for children are not more developed in protracted cases than they are in those which occur at the usual period. This would lead to the inference that when a child has reached a certain stage of development it ceases to grow; a view which is borne out by the observations of Dr. Rüttel. (Henke's "Zeitschrift," 1844, p. 247.) This gentleman observed that the size of a child did not increase in proportion to the length of gestation. In protracted human and animal gestation, the offspring is not remarkable for size and weight. Thus robust mothers have had small children, and small mothers strong and sometimes unusually large children. Dr. Murphy states that he met with a fully-developed child which was born after a gestation of only 251 days. ("Lancet," Nov. 30, 1844, p. 284.) For an account of the characters presented by children at different uterine ages, see INFANTICIDE (p. 467.)

Development of the Child.—In judging from marks of development on the body of a child, as a test of uterine age, we must make full allowance for the exceptions to which they are liable. The nearer the supposed premature delivery approaches to the full period of gestation, the more difficult will be the formation of an opinion. Although the characters of a seven-months' child as a general rule, are usually well-marked, and may be known by common observation, it is not possible to distinguish with absolute certainty a child born at the eighth from one born at the ninth month. Burns observes that gestation may be completed, and the child perfected to its natural size, a week or two sooner than the end of the ninth month; and other accoucheurs corroborate this view. (Dr. Murphy, in "Lancet," Nov. 30, 1844, p. 284.)

When, however, the facts are such that to be the offspring of the husband it must be a six months' child, and it is born mature, there can be no reason to doubt that it is illegitimate. (*Eager* v. *Grimwood*, Exchequer Sittings, Jan. 7, 1847.) But the fact that a child born at nine months is small and resembles in size and weight a seven or eight-months' child, cannot be taken as a medical proof of illegitimacy. Children born at the full period vary considerably in size and weight; yet, although small, there is commonly about them an appearance of *development*, which is especially apparent in the features. If there be a general want of development in the body, and if certain fœtal peculiarities remain; as, for example, the membranæ pupillares, or, in the male, the testes do not occupy the scrotum: these facts lead to a strong presumption that the child has not reached the full period. On the other hand, when a child is born with the full signs of maturity about it, at or under seven months from pos-

sible access of the husband, there is an equally strong presumption that it is illegitimate. The great progressive stage of development is considered to be during the two last months of gestation; the changes which the fœtus undergoes are greater and more marked at this than at any other time. The general opinion is that an eight-months' child is not with any certainty to be distinguished from one born at the ninth month. If the body of a child is large and fully developed, it would be considered to have been born at the full period of gestation, and any opinion which had led to the supposition that it was a seven-months' child, would be attributed to some mistake in the calculation. Dr. Beck states it as barely possible that a child born at seven months may *occasionally* be of such a size as to be considered mature, yet he qualifies this statement by the remark, that the assertion is most frequently made by those whose character is in danger of being destroyed. The important medical question is, however, has a really seven-months' child ever been born so developed as to be mistaken by an experienced person for one that was mature? He adduces no case of this kind in support of his opinion. There can be no doubt of the correctness of his statement that a *mature* child, born *before* seven full months after intercourse, ought to be considered illegitimate; but it would be difficult to maintain this proposition consistently with the above admission, for there is no obvious reason why a child should not acquire premature development during the latter half of the sixth as well as at the seventh month.

In *Bromwich* v. *Waters* (Chester Lent Assizes, 1862) the question of premature development arose incidentally upon an alleged gestation of 259 days. It was stated that intercourse had taken place upon the 9th November, 1861, and a child was born on the 26th July, 1862, a period of 259 days, or thirty-seven weeks. The child had the appearance of a mature child. The counsel for defendant admitted that a child born at this period, *i. e.*, three weeks before maturity, might be as large as one born at the ninth month, but he denied that it would be so perfectly developed in all its parts. When the question was put to Sir J. Simpson, of Edinburgh, who gave evidence at the trial in favor of the defendant, he said that the full size was generally combined with full development; and he further stated that it was against all the laws of nature that children should be born full-grown even a fortnight before the usual term of gestation, which he fixed at nine calendar months and a week. According to this view, if there had been intercourse on the 9th November, 1861, the day of probable delivery would be a week after the 9th of the following August, *i. e.*, on the 16th August, 1862. Hence, as the child was actually born in a *mature state* on the 26th July, this was three weeks before the usual term; and therefore, in his opinion, impregnation from some other person had probably taken place three weeks earlier than the period assigned by the woman (Whalley). Sir J. Simpson considered it to be as rare that a child should be born full-grown three weeks before the usual period, as that a man should attain one hundred years of age! ("Report of the Trial of *Brom-*

wich v. *Waters*," 1863, p. 33.) There are not many medical witnesses, however, who would venture to affirm that in the last three weeks of gestation there are such marked changes in the body of a child as to render this difference in time always perceptible, or who would venture to bastardize a child or convict a woman of adultery because, when born at the 259th day after intercourse, the child had about it the usual appearances of maturity. This would be equal to affirming that variations in size might take place at the ninth but not at the eighth month of gestation. But facts are adverse to the theory. Dr. Rüttel, an experienced observer, has met with several instances in which women have been delivered *two* and even *three weeks* before the expiration of the ordinary term (280 days), and the children were as perfectly developed, to all appearance, as other children which had been born at the full period; at any rate they could not be distinguished from them by a competent observer.

In another part of this work (INFANTICIDE, p. 469), some cases are related which prove that at the ninth month children are occasionally born of a size and weight greatly exceeding the average. Thus a nine-months' child has been born weighing eighteen pounds and measuring thirty-two inches, whereas the usual weight is from six to seven pounds, and the length eighteen inches. In such an exceptional case, there is reason to believe that had the child come into the world at the seventh month, it would have appeared to the accoucheur to have reached the full term. As it is impossible to say when such an exception is likely to occur, and a lawyer is always entitled to take advantage of either extreme, it follows that in any case in which this question arises, a witness will be bound to admit that a seven months' child may be born of the average size and weight of a nine-months' child, or to give some valid reason for the fact that great variations in size and weight may occur at the ninth but never at or about the seventh or eighth month of gestation. He must also be prepared to affirm from facts within his knowledge that in these extreme cases the doubling of the weight and length of the child is not progressive, but that it suddenly takes place at or near the ninth month. If the child is a male, and the testicles are found in the scrotum, there is every reason to believe that it has passed the seventh and even the eighth month of uterine life. (See INFANTICIDE, p. 468.) The differences of opinion among obstetric experts in reference to this question appear to admit of explanation. All will agree that, as a general rule, a seven-months' child might be distinguished from a nine-months' child, unless the latter was a twin; but at the same time it must be admitted that if variations in development take place at the full term, there is nothing to prevent such variations from occurring at the seventh and eighth months of gestation. Dr. Hicks informs me that he has seen a child born seven months after marriage as large as at the full term; but, as he suggests, this child might really have been begotten so as to be born at the full term. In order to determine this point by unexceptionable facts, it would be necessary to collect a series of cases of impregnation from one intercourse in which the children were born seven

months after such intercourse, and were proved to have the average size and weight of mature children. In the meantime counsel will care little for the rule, but will take every advantage of the existence of admitted exceptions.

Earliest Period at which a Child may be Born Living. Viability.—The fact that a child has had the strength to survive its birth for a certain period has been supposed to furnish additional evidence of maturity; for it is well-known that under a certain age children are not born living, or, if living, they speedily die. Therefore it has been argued, if a child born at the fifth or sixth month after the first cohabitation, be born living, or survive, this should, ipso facto, be taken as a proof of its illegitimacy. According to the English law, it is not necessary that a child, when born, should be capable of living, or *viable*, in order that it should take its civil rights. Thus it may be born at an early period of gestation: it may be immature, and not likely to survive: or, again, it may be born at the full period of gestation, but it may be obviously laboring under some defective organization, or some mortal disease, which must necessarily cause its death within a short time after its birth. Fortunately, these points are of no importance in relation to the right of inheritance: an English medical jurist has only to prove that there was some well-marked physiological sign of *life* after birth—whether the child was mature or immature, diseased or healthy, is a matter which does not at all enter into the investigation. In this respect our law appears to be more simple and just than that which prevails in France. By Art. 725 of the Code Napoléon, no child that is born alive can inherit, unless it is born, as the law terms it, *viable*. The meaning of this word is not defined by the law itself, and there are probably no two lawyers or physicians in that country who place upon it the same interpretation. The French law seems to intend (Devergie, vol. 1, p. 700: Briand, p. 173) by viability in a new-born child, that it should have breathed and be capable of living out of the womb of its mother and independently of her: also, that it should be capable of living for a longer or shorter period after its birth. It would be difficult for any system of jurisprudence to lay down a more vague or incorrect principle than this; and medical witnesses may consider themselves fortunate that in this country they have not to take part in the unsatisfactory litigation to which such a principle must necessarily give rise.

The question therefore to be considered is—What is the *earliest period* of uterine life at which a healthily-formed child can be born living, and with a capacity to live after its birth and to attain maturity? It is now universally admitted that children born at the seventh month of gestation are capable of living, although they are more delicate, and in general require greater care and attention to preserve them than children born at the ninth month; the chances, are, however, very much against their surviving. It was the opinion of Dr. William Hunter, and it is one in which most modern authorities concur, that few children born before *seven calendar months* (or 210 days) are capable of living to manhood. They may be born

alive at any period between the sixth and seventh months; or even, in some instances, earlier than the sixth: but this is rare, and, if born living, they commonly die soon after birth. There is one case on record, of a child having been born living so early as the *fourth month* of gestation ("Brit. and For. Med. Rev.," vol. 2, p. 236); and another, in which a woman aborted at the fourth-and-a-half month of pregnancy. M. Maisonneuve saw the woman two hours after delivery: he then found the fœtus in its membranes, and on laying these open, to his surprise it was still moving. He applied warmth, and succeeded in partially restoring it; for in a few minutes the respiratory movements were performed with regularity, but in spite of the establishment of respiration, the child died about six hours after its birth. ("Journal de Médecine," and "Med. Gaz.," vol. 39, p. 97.) In two instances of abortion about the *fifth* month, Dr. Davies, of Hertford, noticed that the fœtus showed signs of life after its birth, by moving its limbs ("Med. Gaz." vol. 40, p. 1022); and the following case, in which a child born at the *fifth* month survived upwards of twelve hours, occurred to Mr. Smythe. A female in her second pregnancy, and in the 147th day of gestation, had severe flooding with rupture of the membranes. Labor occurred on the following night, when a small but well-formed fœtus was expelled, giving no other indication of life than a feeble action of the heart, and a strong pulsation in the umbilical cord. It was resuscitated, and *cried* as strongly as a child born at the full period of pregnancy. It weighed less than two pounds, and measured exactly twelve inches. It swallowed some nourishment, but died about twelve hours after birth. The membranæ pupillares were entire—the testicles had not descended—the head was well covered with hair. The length and weight, as well as the presence of hair, indicated a fœtus between the sixth and seven months; but, as it is asserted that the period of gestation is accurately given, this must be regarded as an extraordinary instance of premature development. There was clearly nothing in the organization of this child to have prevented its growing to the age of maturity—in other words, it was *viable*. ("Med. Chir. Rev.," July, 1844, p. 266.) In November, 1865, Mr. Carter communicated to me the particulars of a case in which a child was born living at the *fifth month* of gestation. It cried slightly when it was born, and during the half hour that it was kept unsevered from its mother it made frequent efforts to breathe. It was perfectly formed. It was about one foot in length, and its weight was fully one pound and a quarter. It died soon after it was born. A case is reported, in which a child born at five-and-a-half months survived its birth between three and four hours ("Med. Gaz.," vol. 19, p. 165); and on a trial for child-murder (*Reg.* v. *West*, Nottingham Lent Assizes, 1848), a midwife was indicted for causing the death of a child by bringing about the premature delivery of the mother, when she was between the fifth and sixth months of pregnancy. The child in this instance lived five hours after its birth. Capuron mentions an instance in which a child was born at the sixth-and-a-half month of pregnancy, and at the time he reported the case it was two years

old, and enjoyed excellent health. In another instance a child was born at the same period, and lived to the age of ten years. ("Med. Lég. des Acc.," pp. 162, 208.) In a case which fell under my own knowledge, a child was born at the sixth-and-a-half month of gestation, and lived a fortnight. (See another case, "Med. Gaz.," vol. 32, p. 623.) Capuron considers that a child born at the 180th day, or at the sixth month after conception, may be sufficiently mature to live, *i. e.*, that there would be no reason to presume it was illegitimate, merely because it survived its premature birth. On the other hand, if born before the sixth month, with sufficient maturity to live, this fact, although by no means a proof, affords, in his opinion, a strong presumption of its illegitimacy. Of eight cases of children born living (by abortion) at the sixth month, Mr. Whitehead states that seven perished within six hours after birth, and one only attained to the age of ten days. ("On Abortion," p. 249.)

Dr. Rüttel, who has examined the subject with great care, states, as the result of his experience, that he attended a married woman, who was afterwards delivered of a living child in the *fifth month* of her pregnancy: the child survived its birth for twenty-four hours. He delivered another woman of twins, in the *sixth month* of her pregnancy: one was dead, and the other continued alive for three hours, its life being indicated only by the visible pulsation of the heart, but there was no perceptible respiration. This fact corroborates the remarks made elsewhere, as to life without active respiration (INFANTICIDE, p. 472); it has also an immediate bearing on the proof of life in reference to tenancy by courtesy (p. 535). In another instance of the birth of male twins, at the *sixth month*, each weighed three pounds. Dr. Rüttel saw them a year after their birth, and they were then two healthy strong children. (Henke's "Zeitschrift der S. A.," 1844, p. 241.) Dr. Barker, of Dumfries, met with a case, in which a female child was born at the 158th day of gestation, or twenty-two weeks and four days after intercourse. The size and weight of the child corresponded with the period at which it was born: it weighed one pound, and measured eleven inches. It had only rudimentary nails, and very little hair on the back on the head; the eyelids were closed, and remained closed, until the second day; the nails were hardly visible; the skin was shrivelled. The child did not suck properly until after the lapse of a month, and she did not walk until she was nineteen months old. When born, the child was wrapped up and placed in a box before the fire. Three and a half years afterwards, this child was in a thriving state and healthy, but of small make; she weighed twenty-nine pounds and a half. ("Med. Times," Sept. 1850, p. 259; also Oct. 12, p. 392.) Mr. Annan, surgeon, of Kinross, has recorded a case in which a child was born between the end of the sixth and the middle of the seventh month, and lived for a period of four months and eight days; it weighed a pound and a half when seven days old. ("Med. Times," Sep. 9, 1848, p. 304.) In a case which occurred to Dr. Outrepont of Bamberg (reported in Henke's "Zeitschrift," vol. 6), there was the strongest reason to believe that gestation could not have exceeded twenty-seven weeks. The child

(a male) weighed, when born, one pound and a half, and measured thirteen and a half inches. The skin was covered with down and much wrinkled—the limbs were small—the nails appeared like white folds of skin, and the testicles had not descended. It breathed as soon as it was born, and by great care its life was preserved. It is singular that its development was very slow until it had reached a period which would have corresponded to the forty-second week of gestation. Dr. Outrepont saw the child when he had attained the age of eleven years, and then he appeared to be of the size of a boy of eight years. The only remarkable point about the case is the length of time which the child lived. In a case quoted in the "Lancet" (Aug. 23, 1851, p. 177), a child born at six months and ten days was thriving satisfactorily when four months old. (See also "Med. Times," Feb. 16, 1850, p. 129.)

Hence it may be considered as established that children born at the seventh, and even at or about the sixth month, may be reared, and that the fact of their surviving for months or years cannot be taken as evidence of illegitimacy. In forming our judgment on these occasions, we are bound to look less at the period at which a child is born, than at the marks of development about the body. The case reported by Mr. Smythe, p. 552, is corroborative of this view. Dr. Bonnar has recently published a tabulated view of 112 cases of premature births of living children—the dates of gestation extending from the 120th to the 210th day. Among these cases 35 children died within the first twenty-four hours; 13 more before the completion of one week; 1 in six weeks; 4 in four months. The following lived, or were living at the date of the report: 1, seven and a half months; 8, from one to two years; 1, three and a half years; 5, from ten to fifteen years; 6, to adult age; 5 lived not stated how long. ("Critical Inquiry regarding Superfœtation," 1865, p. 13.)

Protracted Births. Long Periods of Gestation.—The questions connected with retarded gestation have given rise to considerable discussion in legal medicine. That gestation may be retarded or protracted beyond the fortieth week is now, I believe, not disputed by any obstetric writer of reputation. Some accoucheurs have denied it, because they have not met with such cases; but the medico-legal relations of such questions do not depend upon the solitary experience of practitioners. It is only by the accumulation of well-ascertained facts from all authentic sources that medical knowledge can be made available for the purposes of the law; otherwise, owing to the mere accident of a witness not having met with any exceptional instance, a court may be entirely misled in its judgment by trusting to his opinion. It is the more important to attend to this, because most of the cases involving questions either of contested legitimacy, or the chastity of females, turn upon protracted rather than upon premature delivery.

In standard works on Midwifery will be found authentic reports of cases in which gestation continued to the forty-first, forty-second, forty-third, and even to the forty-fourth week. Dr. Murphy regards

301 days, or forty-three weeks, as the average limit of gestation. ("Obstetric Report," p. 4.) Dr. Lee met with a case in which he had no doubt that the pregnancy lasted 287 days: the labor did not take place until forty one weeks after the departure of the husband to the West Indies. ("Med. Gaz.," vol. 31, p. 917.) Dr. William Hunter met with two instances in which gestation was protracted until the forty-second week. Dr. Montgomery met with a case in which delivery did not ensue until between the forty-second and forty-fourth weeks. ("Med. Gaz.," vol. 19, p. 646.) Dr. Merriman has published a valuable table on the subject of protracted gestation, on which the most experienced accoucheurs have been in the habit of relying. Of 114 pregnancies, calculated by him from the last day at which the females menstruated, and in which children appeared to be mature, the following were the periods:—

In the 37th week	3	In the 41st week	22
" 38th "	13	" 42d "	15
" 39th "	14	" 43d "	10
" 40th "	33	" 44th "	4

Another well-marked case, occurring forty-four weeks precisely after the cessation of the menses, has been communicated to me by Dr. S. W. J. Merriman.

From these results Dr. Merriman considers that in the greater number of women gestation is completed in the fortieth week from the cessation of the menses, and next to this period in the forty-first. In the evidence given by this gentleman in the *Gardner Peerage* case before the House of Lords in 1825, the case of longest protraction on which he was able to rely was that of a married woman, who was in the habit of calculating from the last day on which her monthly period ceased. This lady was delivered 309 days, or forty-four weeks and one day, from the time at which she supposed that she had conceived. In another case mentioned by the witness the period was 303 days, or forty-three weeks and two days from the termination of the last monthly period. It was objected to this evidence, by the Attorney-General, that it was impossible to fix the exact date of conception, and, as the female might have really conceived only a day or two before the expected return of menstruation, twenty-eight days (or four weeks) should be deducted from the periods assigned by the witness. Admitting the validity of this objection—and the fact upon which it is based is indisputable—it followed that the longest protracted case observed by Dr. Merriman might have really been only a case of ordinary gestation extending to forty weeks and one day. An objection of this kind may of course be successfully urged in law to any inference from a calculation so made, and it was thus in the Gardner Peerage case the medical evidence failed to render it certain that gestation might be so protracted as to support the legitimacy of the claimant: namely to 311 days or forty-four weeks and three days. Hence, in considering this question it is necessary to make full allowance for such a cause of error; and, in calculating the pregnancy from the last day of the last menstrual period, we should deduct the interval of menstruation, if known,

and at least twenty-eight days if unknown. In these cases of contested legitimacy the offspring is commonly the result of a *single* intercourse, hence the date of conception is fixed within limits already described (p. 545): and a comparison can be instituted only between the period of gestation thence deduced, and the periods taken in other cases which are equally free from error.

A well-marked case of gestation passing beyond what is commonly set down as the average period was communicated to me by Mr. Howell, of Walton-on-Naze. This occurred in a healthy woman, aged 30, who had borne three children, the youngest being 4 years old. She had menstruated with regularity up to the third week in June: the menses then stopped without any apparent cause. Her delivery took place 323 days after their last appearauce. Allowing that impregnation occurred at the intermenstrual period, this would make the gestation 309 days; or assuming that impregnation did not occur until twenty-eight days from the date of the last menstruation, this would make the period 295 days, or forty-two weeks and one day.

A case is reported by Dr. Power in his work on "Human Pregnancy," in which gestation is said to have extended to 325 days. Mr. Chattaway of Knighton, a former pupil, communicated to me the following instance of protracted gestation. A healthy woman, æt. 36, the wife of a farmer, applied to him to attend her in her confinement, which she expected to take place in September, 1856. The menses appeared for the last time in December, 1855, and she quickened in the beginning of April, 1856. About the middle of September (*i. e.* on the 283d day, dating from the last menstruation), Mr. Chattaway was summoned to attend her, and he found her laboring under severe false pains; there was also a discharge of mucus tinged with blood. The case went on until the 19th November 1856, when the patient was delivered of a female child of the average size. It would thus appear, according to the ordinary mode of calculation, that deducting twenty-eight days from the last appearance of the menses, gestation was protracted in this instance to 330 days, or forty-seven weeks and one day.

This, of course, is open to the suggestion that the menses had ceased from some accidental cause, and that pregnancy had taken place some weeks subsequently. In reference to this objection, it may be observed that few women have such unusually protracted pregnancies. Then, again, all practitioners may not have met with protracted cases; but the fact being clearly ascertained in one case, it is unnecessary to search for more, unless we doubt the credibility of reporters well qualified to observe, and who could have had no conceivable motive to misrepresent the facts which came before them. On this part of the question I think it is unnecessary to argue. The advocates of a fixed and limitable period differ from each other by a space of at least ten or twelve days, and each must either take his own experience for the final decision of this question, or it must be allowed that men of equal powers of observation with themselves, have met with exceptional instances.

Protracted cases of gestation are always open to the objection that

the menstrual function may have been suspended from some hidden morbid cause, one or two months before the actual date of conception, and that there may have been some error in the calculation by which the period has been determined. If, however, the objection is admitted under these circumstances, it would be only equally just to admit that in any given case the ordinary and so-called fixed period, also calculated from the cessation of menstruation, is based on a fallacy. The menstrual function may have accidentally ceased, or continued for several intervals after conception, and thus a corresponding change should be made in fixing the ordinary period of gestation. This view of the question implies that no reliance can be placed on the date of the cessation of the menses as evidence of the actual duration of pregnancy, whether natural, premature, or protracted. My colleague Dr. Hicks informs me that he met with a case in which the pregnancy of a woman appeared to be protracted to between twelve and thirteen months. There was every reason to believe that this woman became pregnant during the absence of the menses, and that these had been suspended for some time before intercourse took place. This is no doubt the explanation of a large number of cases of alleged protracted gestation.

In the Gardner Peerage case, the Attorney-General was quite willing to rely upon the cessation of the menstrual discharge as a good criterion of the duration of pregnancy, when by such a mode of calculation this was not made to exceed forty weeks, and thus fitted in with his own view of the case! But it is obvious that this condition must be either taken or rejected altogether as evidence: if taken, we have no right, in alleged protracted cases, to refer the suppression to disease, for the sake of shortening the period, when in ordinary cases we do not refer its continuance to disease, because this would tend to lengthen it: if rejected, it would be in the highest degree unjust not to give to a claimant the beneficial presumption of his having been born legitimate, when the cases adduced in evidence against his claim are actually based upon a precisely similar mode of calculation!

It is, however, difficult to admit that all the protracted cases recorded by different observers have depended upon mistakes being made in the calculation of the period, since this calculation is based on the same principles as those adopted in cases of ordinary pregnancy. Hence, if there is a mistake in the one case, there would be in the other: if an error in the exception, there would be an error in the rule. Either the average term of pregnancy is wrongly calculated by most accoucheurs at the thirty-eighth or fortieth week, or it is rightly calculated to extend occasionally to the forty-fourth, or, admitting these protracted cases, to the *forty-sixth* week. But, even setting aside the obvious answer to an objection of this nature, some of the protracted cases observed were instances of impregnation from a single intercourse; and, making due allowance for the interval for conception, the general inference would not be affected, and no fallacy could have arisen in these cases of protraction, from mistakes dependent on the cessation of menstruation.

The late Dr. Reid's conclusions, derived from numerous facts and cases, represent the views of an experienced observer on this much-disputed question. They are—"1. The duration of pregnancy is not altogether a fixed period: it varies somewhat in the human female, as it does in the lower orders of animals. 2. This deviation, however, is not to any great extent: the only *certain* data of calculation are those dependent on the *known time of conception* (of *intercourse?*). 3. The *average* duration of the pregnant state, when calculated from this event, is about 275 days, or it may have a range of from 270 to 280 days. 4. There is no full or satisfactory evidence of gestation having been prolonged beyond 293 days. 5. The Code Napoléon, which allows 300 days, may be regarded as liberal. 6. The menstrual period must generally serve as our guide in default of some exact knowledge: it is, however, often fallacious, and is only a means of approximation to the probable time of parturition. 7. The fortieth week after the last appearance of the menses is the most likely period, and the forty-first week the next."

Dr. Duncan ("Edin. Monthly Journal," 1854, vol. 9, p. 230) draws the following conclusions regarding the duration of pregnancy: 1. That the interval between conception and parturition (the real duration of pregnancy) has not been exactly ascertained in any case. 2. That the average interval between insemination (intercourse) and parturition (commonly called the duration of pregnancy) is 275 days. 3. That the average intervals between the end of menstruation and parturition have no standard length, but vary within certain limits. 4. That while absolute proof of the prolongation of real pregnancy beyond its usual limits is still deficient, there is evidence to establish the probability that it may be protracted beyond such limits to the extent of three or even four weeks.

It will be perceived from the conclusions drawn by Dr. Reid, that he admits a variation of 23 days, *i. e.*, from 270 days (the shortest period) to 293 days, the longest known to himself from a single intercourse. There appears to be no valid reason why the variation should not be even greater than that which is here assigned, and why the duration of pregnancy might not extend occasionally to 296 and even to 301 days. It is merely a question of individual experience. An accoucheur who admitted a variation of 23 days, and who had known gestation to be protracted to the 293d day after intercourse, would hesitate to pronounce a child illegitimate merely because it had been born on the 296th or the 300th day after possible access of the husband. There is no doubt a limit to gestation, but it is not in our power to fix it: hence we find obstetric writers of repute adopting periods which have no point of agreement among themselves. Some stop short at 280 days; others, like Dr. Reid, fix the maximum yet known at 293 days; Dr. Murphy allows from his experience at least 324 days; and Dr. Meigs considers that gestation may be continued to twelve months, or 365 days. ("Obstetrics, the Science and the Art," 1849, p. 194.) The fact is, the term has not yet been fixed even approximately by medical science: hence, in a disputed case, other circumstances must be looked to in

order to lead a court of law to a safe decision. It is at present hopeless to reconcile the conflicting medical opinions which exist on the subject of the duration of pregnancy in the human female. There is, indeed, only one point on which all modern observers agree—namely, that the period cannot be limited to a fixed and invariable number of days or weeks but that it is liable to variation according to circumstances not fully understood.

It has been elsewhere observed that the date of intercourse does not furnish us with the date of conception, and according to some authorities all evidence connected with the function of menstruation is untrustworthy. In spite of these objections the menstrual period must generally serve as a guide in default of more certain criteria. It is, however, a curious fact, and one which the mind of an acute lawyer will not fail to appreciate, that the date of the cessation of the menses is taken by some physicians as a guide (in married life with constant intercourse), so long as gestation does not extend beyond 280 days; while, supposing it to extend to 300 days, they will assume that some other cause than pregnancy must have led to an earlier suppression, and thus to an error in the calculation! There may be no more evidence of suppression from a morbid cause in the one case than in the other, and the period of 280 days may be as much based on error as the period of 300 days. It is strange that clever writers, who adopt this mode of making facts square with a foregone conclusion, do not perceive that they must, in fairness, either reject altogether the evidence derivable from a cessation of the menses, or admit it adversely to their own views, in cases in which the facts connected with the cessation have been as carefully observed and recorded by others as by themselves. No evidence on this subject can be drawn from an examination of the body of a child. There is no increase of size or development after the ninth month has passed. Children born at the full period of nine months, have been larger and heavier than many children born, as it was believed, at a later period. In cases of alleged protracted gestation, it may be considered that the child should always have attained its full growth and most perfect development.

Period of Gestation not Fixed by Law.—In all cases of contested legitimacy, the question respecting the duration of gestation, when it arises, is left entirely open by the English law. The French law, under the "Code Napoléon," allows 300 days, and the Prussian law 301 days; but no period has been fixed by English jurists within which, or beyond which, a child, if born in wedlock, will be presumed to be illegitimate. The decision of a court of law would be founded, quoad the duration of pregnancy, on the opinions of experts selected for the occasion, and each case would be decided on its own merits. Precedents can have but little influence on these occasions, because a court may think fit to pronounce illegitimate, on non-medical grounds, a child born in the thirty-eighth week of gestation, while it may decide that another was legitimate that had been born in the forty-third week. By some law-authorities *forty* weeks (or 280 days), and by others forty-three weeks (or 291 days),

have been taken as the "ultimum tempus pariendi;" but as the period of human gestation is wholly independent of legal dicta, it is not the custom of courts to act upon any definite rule. Nevertheless, it is clear in some extreme cases that the law may fairly interpose, and pronounce for a reasonable limit. In the case of *Cotterall* v. *Cotterall* (decided in the Consistory Court, July, 1847), a child was born during the marriage, and the husband proceeded against the wife for a divorce on the ground of adultery. The main proof was based on the fact that in order to have been the child of the husband it must have been born after *twelve months*' gestation. Dr. Lushington, without entering into the question of protracted gestation, upon proof of this allegation, at once pronounced for the divorce. Such a duration of pregnancy is not supported by any known facts, and is altogether opposed to medical probability. In suits of contested legitimacy the general practice consists in establishing possibility of access on the part of the husband: when this is proved, the medical question arises, whether the term of gestation falls within the limits assigned by the best medical experience. In two instances, children have been pronounced legitimate, which were born, the one in forty-one weeks and three days, and the other in forty-one weeks and four days, after the death of the husband. Legitimacy has been allowed where gestation was probably protracted to the *forty-third week* (*Anderton* v. *Gibbs*, 1854). In the United States, a decision in favor of paternity has been made in a case in which gestation extended to *forty-five weeks* and two days (*Commonwealth* v. *Porter*). Legitimacy has been disallowed in the English Courts, although probably on non-medical grounds, where it was protracted to *forty-four weeks* and three days (*Gardner Peerage case*, 1825); in one case paternity was denied (judicially) because gestation had extended to *forty two weeks* and five days (*Luscombe* v. *Prettyjohn*), and in another (*Dyson*) because it had extended to *forty-eight weeks*.

PATERNITY.

CHAPTER LIV.

DISPUTED PATERNITY.—PARENTAL LIKENESS.—AFFILIATION.—POSTHUMOUS CHILDREN.—SUPERFŒTATION IN RELATION TO LEGITIMACY.—SUPPOSITITIOUS CHILDREN.—SEXUAL MALFORMATIONS.

Disputed Paternity. Parental Likeness.—It has been stated that the law does not pretend to determine who begat a child when it has been born during wedlock, and from circumstances it might be the child either of the husband or of an adulterer. But medical

jurists have recommended that family-likeness should be looked to on these occasions—not merely a likeness in *feature* and figure, but in gesture and other personal peculiarities which may have characterized the alleged parent. These are called questions of *paternity:* they seldom occur except in reference to cases of bastardy, and when they do present themselves, the evidence thus produced, even if affirmative, is properly regarded as only corroborative. In the *Townshend Peerage* case (House of Lords, May, 1843), a presumption based on family-likeness was admitted by their lordships. The person whose legitimacy was in question was sworn by one of the witnesses to bear so strong a likeness as a child to the alleged adulterer, that he should have known him among five hundred children.

The proceedings in the *Douglas Peerage* case (1767–9) show that evidence of this kind is occasionally of some importance. The peerage was claimed by Archibald Douglas—the survivor of two brothers after the death of the alleged parents, Sir John and Lady Douglas. The claim was disputed, on the ground that the appellant and his deceased brother were supposititious children. Evidence for and against the legitimacy of the claimant had been collected from every quarter, and after it had been most minutely sifted and criticized, the case came on for judgment, in the Court of Session in Scotland, on the 7th of July, 1767. So important was the cause deemed, that the fifteen judges took eight days to deliver their opinions. The result was that seven of the judges voted in favor of the identity or legitimacy of Mr. Stewart, and seven against it; the Lord President, who had the casting-vote, agreed with the latter, by which Archibald Douglas, *alias* Stewart, was cast on the world without either name or estate—thus furnishing one among numerous instances that learned judges as well as doctors can differ with precisely the same facts before them. An appeal from this decision was taken to the House of Lords, by which the judgment of the Court of Session was reversed in 1769, and Archibald Stewart (or Douglas) declared to be the undoubted son of Lady Jane, the sister of the previous holder of the title. Much stress was laid, in favor of the legitimacy of these children, on the fact that they closely resembled—the one Sir John, and the other Lady Douglas. The resemblance was said to be general; it was evident in their features, gestures, and habits. Lord Mansfield, in delivering judgment, made the following remarks, which comprise all that can be said on this subject: "I have always considered likeness as an argument of a child being the son of a parent, and the rather as the distinction between individuals in the human species is more discernible than between other animals. A man may survey ten thousand people before he sees two faces exactly alike; and in an army of a hundred thousand men, every man may be known from another. If there should be a likeness of feature, there may be a difference in the voice, gesture, or other characters, whereas a family-likeness runs generally through all these; for in everything there is a resemblance, as of feature, voice, attitude, and action." This kind of evidence has been strongly objected to from its uncertainty; and I am informed, on good authority, that it was in this

instance much disputed whether one of the children did resemble Lady Douglas, but it seems to have been generally admitted that the other child resembled the husband, Sir John. From this account it will be seen that evidence from family-likeness is not strictly medico-legal; it can be furnished only by friends and relatives who have known the parties well, and are competent to speak of the facts from personal acquaintance with them. It will also be apparent that the affirmative evidence in such cases will be stronger than that which is negative, for it could hardly be inferred that a person was illegitimate because he did not resemble his parent.

Parental likeness may be occasionally indicated by color or peculiarities belonging to the varieties of mankind, as of the intermixture of the Negro or Mongolian with one of the Caucasian variety. In such a case the evidence afforded becomes much stronger; and supposing that two men of different varieties have intercourse about the same time with the same woman, the color of the skin of the offspring might enable a court to determine the question of paternity. It is stated to have happened, on more than one occasion, that a black woman has given birth at the same time to a black child and a mulatto; Dr. Cunningham refers to a case in which a negress gave birth to twins, one a black and the other a white child. ("Lancet," May 9, 1846, p. 525.) This was probably a case of superconception. In *Stothard* v. *Aldridge* (Bail Court, January, 1856), the plaintiff sued the defendant for damages for the seduction of his wife. The defendant was a man of color, and the child born of the alleged adulterous intercourse was proved by the medical witness to have been born colored and with woolly hair. The husband and wife were both light. This peculiarity fixed the paternity of the child on the black defendant.

Personal *deformities* are not necessarily transmitted from parent to child; yet it would appear from the subjoined case, that a disputed question of affiliation has been settled on this principle. A woman alleged that a gentleman in whose service she had lived, was the father of a child of which she had been recently delivered. The solicitor who appeared to support the affiliation, rested his case chiefly on the fact that the child had been born with five fingers and a thumb on the right hand, the defendant himself having been born with a similar malformation on both of his hands. It was argued, on the other side, that the deformity might have arisen from the mother's imagination, as, while pregnant, she was constantly in the habit of seeing the defendant. The magistrates decided that he was the father of the child, and condemned him to pay the necessary expenses for its support. ("Med. Times," March 6, 1847, p. 47.) It is very likely that the decision was here influenced by moral circumstances, for otherwise the defendant might have been the victim of a coincidence. Six-fingered children are, it is well known, born occasionally of five-fingered parents; and as the deformity existed only on one hand in the child, while it was on both hands in the parent, the medical proof that it was actually transmitted by generation was certainly not clearly made out. In some instances attempts

have been made to fix the paternity of a child by the *color of the hair*, but this evidence is far less conclusive than that afforded by the color of the skin. In the case of *Frazer* v. *Bagley* (Feb. 1844) it was alleged that the wife of the plaintiff had had criminal intercourse with the defendant, and the last two children were stated to be the offspring of the latter. The plaintiff and his wife had dark hair, as well as all the children with the exception of the two last: these had red hair; and it was further proved that the defendant had red whiskers and sandy hair. No particular stress was laid upon this evidence, but it was received as a kind of indirect proof. Not much confidence can be placed in facts of this description, since red-haired children are often born to parents who have dark hair; and in one case the children born in wedlock were observed to have dark and red hair alternately.

Affiliation.—Questions of paternity are involved in those relating to *affiliation.* A man may allege that he is not the father of a particular child, by reason of certain circumstances upon which a medical opinion may be required. The necessary transmission of gonorrhœa or syphilis by intercourse may thus become a medical question. In September, 1844, a man was required, under the law of bastardy, to support two children alleged by a female to be his; the time of gestation was within nine months. The accused denied that he had had intercourse with the deceased, or that he could have been the father, since he was at the time under medical treatment for venereal disease. The medical questions may therefore assume this shape: 1. Are these diseases invariably transmitted by intercourse? 2. Do they interfere with the act of procreation? Under common circumstances they must both be answered in the negative.

A singular case of bastardy is reported to have occurred in Appenzell, Switzerland. The question was, which of two persons, who had had intercourse with the same woman within a period of *seventeen days*, was the father of an illegitimate child borne by the woman? The council, to which the case was referred, gravely resolved to postpone their decision until the features of the child were so far developed as to enable them to decide from *paternal likeness.* The equity of this difficult case would have been met by compelling each man to contribute to the support of the child! (Schneider's "Annalen der Staatsarzneikunde," 1836, 1 B. s. 470.) The following, which is a more doubtful case, was the subject of a communication to the "Lancet" (March 13, 1847, 336): Two men, A and B, had intercourse, unknown to each other, with a young woman of delicate health; and after this had continued for some years, she was delivered of a female child—nine calendar months and three days after sexual intercourse with A, and nine calendar months, less five days, after similar intercourse with B; or at the end of 279 days after intercourse with A, and at the end of 271 days after intercourse with B: that is, a period of *eight days* elapsed between the periods of intercourse with the two men. The woman had no menstrual discharge in the meantime, and it is not believed that she knew any other man; she went her full time, had a good labor, and produced

a fine healthy girl: she had a plentiful supply of milk, and enjoyed better health during her pregnancy and suckling than at any other time. The woman died, and the circumstances of the mixed intercourse having become known to A and B, they both refused to maintain the child. A contended that, as the woman was not delivered until nine months and three days after the connection with him, it was physically impossible the child could be his. B contended, on the other hand, that 280 days, and not nine months, is the period of gestation; and that the child having been born 279 days after connection with A, and only 271 days after connection with B, it was therefore probable that the child was begotten by A. There was no perceptible likeness to either of the men in the child, but a marked likeness to the mother. It is obvious from the remarks elsewhere made (ante, p. 545), that the periods of 271 and 279 days are comprised within the ordinary range of gestation: hence there would be no *medical* ground for affiliating the child to one more than the other. When two men have intercourse with the same female on the same day, it is impossible to settle the paternity except by the accident of likeness; as in the former case, justice to the offspring and to each possible father requires that each should be bound to support the child. In cases of affiliation under the law of bastardy, the evidence of the mother, if corroborated, is received in support of a question of disputed paternity; but sometimes these cases are decided by the length of the period of gestation. A man may prove, or a woman may state, that the intercourse took place at such a remote period as to be inconsistent with the ordinary duration of pregnancy. On this point some remarks have been made elsewhere (ante, p. 560). In the United States it appears that very long dates are allowed in bastardy cases; while in this country the tendency is to reject medical evidence altogether. In a case at Cheltenham (July, 1853), the date of intercourse was proved to have been 319 days before the birth of the child. The medical evidence on the whole was in favor of this protraction—one of the witnesses having met with two cases in which gestation was protracted, as he believed, to 310 days from intercourse—but the case was summarily dismissed.

These questions of affiliation, when the interval is less than six or eight weeks, can rarely be determined by medical evidence; in a twin-case, it would be only just that one child should be affiliated to each individual. In a recent case of affiliation, an attempt was made to set aside the order of a magistrate fixing the paternity on the putative father, on the ground that, as the intercourse was had and the child conceived in France, although born in England, it was removed from the jurisdiction of an English magistrate, and should be left to the French courts. The objection was properly overruled, and the alleged father was ordered to pay the usual sum for maintenance. The place of birth should properly fix the liability, as any other rule would be too vague. From what has been elsewhere stated it will be perceived that intercourse might take place in Scotland, followed by conception in England, and birth in Ireland. So that there is a due relation between the date of intercourse and the date of birth, no other proof is required.

Posthumous Children.—It has been supposed that a case involving a question of paternity, might present itself on the marriage of a widow soon after the death of her first husband. If a child were born after the lapse of ten months, it might be a question whether it was a child of the first or second marriage—of the dead or the living husband; and although there might be no dispute concerning its legitimacy, yet it would be difficult to settle its *paternity.* Such a case appears hypothetical. [Lord Hale, however, mentions the two following cases: "18 R. 2. where a woman in such a case, immediately after the death of the first husband, took a second husband, and had issue born forty weeks and eleven days after the death of the first husband, it was held to be the issue of the second husband. M. 4 Car. in Cur. Ward, and afterwards, P. 5 Car. B. R. Thecar marries a lewd woman, but she doth not cohabit with him and is suspected of incontinency with Duncomb: Thecar dies: Duncomb within three weeks after the death of Thecar marries her; 281 days and 16 hours after his death she is delivered of a son. Here is was agreed, 1. If she had not married Duncomb, without question the issue should not be a bastard, but should be adjudged the son of Thecar. 2. No averment shall be received that Thecar did not cohabit with his wife. 3. Though it is possible that the son might be begotten after the husband's death, yet being a question of fact, it was to be tried by a jury, and the son was found to be the issue of Thecar." Hale MSS.—P.] In order that any doubt should exist, a woman must marry within, at the furthest, *six weeks* after the death of her first husband, or the birth of the child would fall beyond the furthest limit of gestation, so far as he was concerned. The customs of society are, however, a bar to such marriages; and admitting that a child was so born, and that it might be the offspring of either husband, then the fact of its having been born during the marriage of the second husband would presumptively fix the offspring upon him, unless it could be shown that there was no possibility of access on his part. If there was a supposed greater likeness to the first than the second husband, still this would not be allowed to defeat the legal presumption of the real parentage of the child. It appears to me that evidence much stronger than this would be required for such a purpose. (See Henke's "Zeitschrift," 1838, vol. 2, p. 432.) ["If a man hath a wife and dyeth, and within a very short time after, the wife marrieth againe, and within nine months hath a childe, so as it may be the childe of the one or the other, some have said, that in this case the childe may choose his father, *quia in hoc casu filiatio non potest probari*, and so is the booke to be intended; for avoiding of which question and other inconveniences, this was the law before the conquest—'*Sit omnis vidua sine marito duodecim mensibus et si maritaverit perdat dotem.*'" Co. Litt., 8, a. Blackstone, vol. 1, p. 483, says that in such case the child is said to be "more than ordinarily legitimate." This doctrine rests upon a *dictum* of Bereford, and no case of paternity seems to have been so decided. The *dictum* is given by Brooke (Abr. Bastardy, pl. 18), who says of it that it is not law. The better opinion is that the question of paternity would depend upon circumstances, to be decided by a jury. See supra, Lord Hale's

note to Co. Litt., fol. 8, cited in Hargrave's note, 190, to Co. Litt., 123, b.—P.]

Superfœtation in Relation to Legitimacy.—Most medico-legal writers, in treating legitimacy, have considered it necessary to introduce the subject of superfœtation. By this we are to understand that a second conception may at any time follow the first, and that gestation may go on to its full period in each instance independently of the other: so that if a woman were impregnated when in the third month of gestation, she would bear the first child mature in nine months, and the second child, also mature, at the end of twelve months after the first conception. This subject has been said to involve "not only the conjugal fidelity of a wife, but the disposition of property, and much of the comfort and happiness of society." Its importance to a medical jurist appears to me to have been here considerably exaggerated. So far as I have been able to ascertain, not only is there no legal case involving this question to be met with in the judicial records of this country, but none in reference to this state is ever likely to occur which would create the least practical difficulty. If we admit that a woman may, during marriage, present such a deviation from the common course of nature, as to produce two perfectly mature and fully-developed children, the one three or four months after the other, how can such an event be any imputation on her fidelity? Superfœtation, if it occur at all, may occur as readily in married life, during connubial intercourse, as among unmarried women. The following appears to be the only possible case wherein a medical opinion might be required respecting this alleged phenomenon. A married woman, six months after the absence or death of her first husband, gives birth to an apparently mature child, that dies: three months afterwards, and nine months after the absence or death of her husband, she may allege that she has given birth to another child, also mature. A medical question may arise, whether two mature children could be so born, that the birth of one should follow three months after the birth of the other; or whether this might not be a case, by no means uncommon, of twin-children—the one being born prematurely, and the other at the full period. (For a case of this kind, at two months' interval, see "Med. Gaz.," vol. 37, p. 27; and for another, at eight days' interval, see the same journal, vol. 47, p. 227; for a third, at thirty-two days' interval, "Am. Jour. Med. Sci.," April, 1845, p. 503.) In one case the abortion of one fœtus occurred at the third month, while the other attained the full period. ("Assoc. Medical Journal," November 11, 1853, p. 997.)

Admitting that each child when born was mature and fully developed, and therefore that the second child presented a case of superfœtation, the first delivery must have taken place in the presence of witnesses, and it would then have been known whether another child remained in the uterus or not. If the two children were born within the usual period of gestation after the absence or death of the husband, then their legitimacy would be presumed, until the fact of non-access had been clearly established. The mere circumstance of their being apparently mature, and born at different periods, would *per se* furnish no evidence of their illegitimacy. On the other

hand, if one or both of them were born out of the ordinary period, then, according to the evidence given, they might or might not be pronounced illegitimate. The law therefore appears to have no sort of cognizance of the subject of superfœtation, as such; it is generally merged in the question of protracted gestation, which has already been fully considered (p. 554).

Dr. Bonnar has lately examined the subject of superfœtation in another aspect, and some of the facts which he has brought forward are not consistent with the theory of the birth of twins at different intervals ("A Critical Inquiry regarding Superfœtation, with Cases," 1865). The first question to which his researches were directed was—at what period after parturition are the female procreative organs capable of again exercising their functions? It has been supposed that a period of thirty days must elapse in order to enable the organs to reacquire procreative power; but according to Dr. Bonnar, the earliest period may be taken at the *fourteenth day* after delivery. Impregnation is not likely to take place until the organs have resumed their natural condition, and this will depend on the disappearance of the signs of recent delivery—such as the tender and swollen state of the vagina, the enlargement of the uterus with its relaxed mouth, and lochial discharge. The persistence of the lochial discharge, the average duration of which after delivery Dr. Bonnar considers to be from one to three or four weeks, is of the greatest importance, as it is most likely to interfere with impregnation. The time for the restoration of the sexual organs to their natural state varies in different women, so that the date for re-impregnation must be more or less conjectural.

It has been usually considered that after the second or third month of pregnancy the cavity of the uterus is so sealed up in the development of the embryo as a result of impregnation, that it is impossible that any fruitful intercourse can take place. In two instances, however, according to Dr. Bonnar, viable children were born of the same woman at five and a half and four months respectively after the first delivery. On the theory of superconception the uterine organs must have been susceptible of a second impregnation up to the fourth month of gestation. But if the children were not born mature, the power of re-impregnation must have existed for one or two months longer than the period usually assigned—*i. e.* up to the fifth or sixth month of a pregnancy already existing. These researches may help to explain some legal difficulties which have occurred in reference to gestation. They furnish a curious comment upon the suggestion made by some medical jurists, that superfœtation involves the conjugal fidelity of a wife, for no suspicion of illegitimacy could be for a moment entertained simply on account of the shortness of the interval between the two deliveries of the same married woman.

Suppositious Children.—Another medico-legal case, in relation to legitimacy, occurs when a woman feigns delivery, and represents the child of another person to be her offspring. She may substitute the living child of another woman for a dead child of which she herself has been delivered, or for a mole which may have passed

from her. So, again, a male may be substituted for a female child, and vice versâ. The practising of a fraud of this nature may seriously affect the rights of inheritance of parties; but it cannot be accomplished without great dexterity and cunning, or without the co-operation of several accomplices. Frauds of this kind have, in general, been committed by the aid of a low class of midwives. One instance occurred at Chelsea, in July, 1842, where the fraud was brought to light by the death of the supposititious child. The calling-in of a professional man would infallibly lead to discovery, when the question was simply whether delivery had or had not taken place; but if it be alleged that one living child has been substituted for another, the proof of this can depend on medical evidence only when the age of the supposititious child does not happen to correspond to the date of the pretended delivery. (See "Ann. d'Hyg.," 1829, vol. 2, p. 227.) The legitimacy of the claimant of the Douglas Peerage was disputed on this ground, but apparently without foundation. A remarkable case of this description will be found in Henke's "Zeitschrift der S. A." (1845, vol. 2, p. 172); and a trial took place some years since in England, involving the alleged substitution of a child, but requiring no medical evidence for its elucidation. (*Day* v. *Day*, Leicester Lent Ass. 1845.) In another case it was proved that a woman had substituted a doll for the dead body of a child of which she pretended she had been delivered. In a case mentioned by Dr. Cheevers, one *Mussamat Janoo*, a midwife of Hisar, being employed to attend a woman in her confinement, persuaded her that the child of which she had been delivered was a monster with two heads, not fit to be looked at: she afterwards said that it was dead, and she would take it away and bury it. She accordingly went away. Next morning, the midwife's services being required, she was sent for. She excused herself from going under the pretence that she (the midwife) had just been delivered of a child. This improbable story excited suspicion, and the police were called in: she declared that the child was her own. This she also maintained at the trial. It appeared, however, from the evidence of midwives who examined her shortly after the discovery of the child in her house, and also by the deposition of the civil surgeon, that she exhibited no signs of recent confinement. Several of the neighbors, who were constantly in the habit of seeing her, deposed that she had not exhibited any outward signs of pregnancy. She did not attempt to prove how she had disposed of the body of the child which she alleged had died immediately after its birth. She was convicted, and sentenced to imprisonment for seven years. ("Med. Jur. for India," p. 512, from the "Nizamut Adawlut Reports," 26th April, 1853.)

Cases involving a question of substitution are not very common. One of these (*Hutchins* v. *Hutchins*) was heard in the Vice Chancellor's Court in May, 1851; and in this the amount of ingenuity required to perpetrate the fraud was only equalled by the skill with which the facts were exposed, and justice ultimately done to the rightful claimant. In another (*Gelney* v. *Smith*, Rolls Court, Nov. 1864) the fraud was nearly successful, and, but for the dying declara-

tion of the woman herself, would probably have escaped detection and exposure. The cases that have hitherto been tried, illustrate the importance of accurate observation on the part of medical men in their practice as accoucheurs. Notes of all cases should be made and preserved, including dates of attendance, &c., daily symptoms, and treatment. This should be an invariable rule when a medical man is suddenly called upon to attend in her confinement a woman who may not have previously consulted him. If he has had no previous knowledge of the pregnancy of a woman, and if when he arrives, the child is said to have been born and is in the hands of a nurse, he should most distinctly satisfy himself, by a personal examination, that the woman has been actually delivered. He should also observe whether the child presents the appearance of a new-born child in reference to the state of its skin, the appearance of the cut navel-string, and other circumstances. It is an awkward thing for a medical man to hear at a trial many years afterwards, that his patient was *not* delivered of a child, that a post-mortem examination of her body had shown that she had never borne a child, and that the supposed new-born babe was, at the date of his first visit, several days old—in short, to find that he himself has been cleverly made to give support to a fraud.

Sexual Malformation.[1]—The legitimacy of a child is open to be contested under other circumstances than those connected with the duration of gestation. The alleged parent may have labored under *physical incapacity:* if a male, he may have been affected with impotency; if a female, she may have labored under sterility; and if either of these conditions be proved, the illegitimacy of a child will be established although the alleged period of gestation may be comprised within the ordinary limits. The sexual conditions now about to be considered have also important bearings in relation to divorce, and occasionally to the civil rights of a child that may be the subject of the malformation. One of the most common and obvious causes of impotency or sterility is malformation of the sexual organs, to which species of monstrosity the term *hermaphroditism* is commonly applied.

Owing to arrested development, during the growth of the fœtus, the sexual organs, which can scarcely be distinguished at the fourth month, occasionally assume an abnormal arrangement. These organs appear to be at that time more or less mixed; and sometimes the male, and at others the female characters predominate. With this defective sexual development, the other peculiarities of the sexes are either wanting, or we find them more or less blended. When, therefore, the being has the characters of a male with malformation of the generative organs it is called *androgynus*—when the characters are those of a female with a like malformation, *androgyna*. There can be no difficulty in identifying such cases, and, according to the degree of malformation, a medical jurist can have no hesitation in pronouncing these persons to be incurably impotent. The organs

[1] [The remainder of this chapter is extracted from the last edition of this work.]

are commonly so defective as to be wholly unfitted for the functions of either sex. It is not intended to be said that it is in all cases easy to assign the sex, but this is of minor importance; the main question is, whether the malformation is or is not such as to justify divorce or the imputation of illegitimacy upon children claiming to be the offspring of these beings.

Distinction of Sex.—The determination of *sex* in these cases of *deformity* has been considered to be necessary under certain circumstances; as when, for instance, a title or entailed inheritance of lands is in question. Lord Coke has stated that, according to the law of England, an hermaphrodite may be either male or female, and it shall succeed according to the kind of sex which doth prevail. Thus it is obvious, that the law will decide each case according to the special circumstances attending it: but it must not be supposed that the decision is so easy as Lord Coke's doctrine would imply. There are many cases in which neither sex can be said to prevail. The beings are positively neuter. The chief character of the male would consist in the presence of testicles, and of the female in the presence of a uterus and ovaries. But in a case which occurred to Mr. Grigor, both the testicles and the ovaries were wanting; there were no essential characters of either sex, and during life it would have been impossible to say whether this being was male or female. ("Cormack's Monthly Journal," July, 1845, p. 492.) In the same journal (p. 531) is reported another case, in which, notwithstanding the *external* resemblance to a female, the presence of one testicle in a scrotum showed that this individual was of the male sex. Yet this person passed for a woman until he had reached his 26th year! It is rare that there is external malformation without internal defect, and even when the female character preponderates in the person, it is not improbable that the uterus or the ovaries may be absent, or the former may be malformed. Such beings are not known to menstruate, and even if there be capacity for intercourse, they are permanently sterile. Sexual desires are, however, commonly absent.

When the person is young, mistakes respecting the sex are more common than at an advanced period of life. So soon as the age of puberty is passed, certain changes take place in the configuration of the body, which may aid a medical practitioner in forming an opinion. Thus, a grave tone of voice, the presence of a beard, the width of the shoulders, and narrowness of the pelvis will indicate, cæteris paribus, the male sex: while when these conditions are absent, and there is a rotundity of the members, with want of prominence in the muscles, and a development of the mammæ, we may pronounce upon the female sex predominating. Although no testicles are apparent, still the being may be of the male sex, since it is well known that in persons otherwise well formed these organs occasionally do not descend to occupy the scrotum. Dr. Harris, of Clarkesville, has related a singular case, in which, although no testicles could be found, there was a short but naturally-formed penis, through which the being regularly menstruated! The female character predominated in the corporeal development, and there was the rudiment of a vagina ("Med. Gaz.," vol. xl. p. 562.) The fact that the being menstruated was

here sufficient to assign it to the female sex. How easily mistakes may be made in the sex of young children is shown by a case which occurred to Mr. Terry, and is quoted in "Cormack's Journal" (April, 1845, p. 307). The child was christened as a female, and was so considered by the parents for two months, when, owing to some defect in the passage of the urine, it was brought to Mr. Terry, and he found there was a malformation of the penis—no vagina, a scrotum with one testicle down and the other descending. He therefore pronounced it to be a male, and its costume was altered accordingly. The presence of a beard and whiskers is usually considered to characterize a male, but the growth of hair on the chin and face is sometimes more profuse in females than in the generality of males. Dr. Chowne examined a female named Joseph Boisdechine on behalf of a man who was about to marry her, but who required a certificate as to the real sex of his intended wife! Dr. Chowne found nothing in her external conformation indicative of doubtful sex. The breasts were large and full, and the only resemblance to a male was in the abundance of beard and profuse whiskers. The upper lip was free from hair. (See "Lancet," Oct. 11, 1851, p. 335; January 15, 1853, p. 66; "Med. Times and Gaz.," January 15, 1853, p. 71. Dr. Chowne has published a full account of this case in the "Lancet" for May 1, 1852, p. 421.) He has appended an engraving which displays the female beard and whiskers. It is stated that this female was born with a quantity of hair on her chin, and that at eight years of age the beard was two inches long!

In some cases an external examination will entirely fail in indicating the sex, and even the opportunity of an examination of the dead body may leave the case in doubt. An ingenious writer has laid it down that there are analogous organs in the two sexes which are never found in the same subject, and the separate existence of which would enable us to determine the sex. These analogous parts are the penis and the clitoris—the scrotum and the labia—the testicles and the ovaries—the prostate gland and the uterus. This, however, is an artificial and, as facts show, an incorrect means of distinction. (See report of a case, in which a body resembling the prostate gland and a uterus existed in the same being, "Med. Times and Gaz.," Feb. 18, 1860, p. 177.) If a penis could always be clearly distinguished from a clitoris, and a scrotum from the labia, the rule might be serviceable: but it fails where it is most required, *i. e.* in the mixed conditions. As to the other means of distinction, even if correct, they will only enable an examiner to form an opinion of sex in the dead, whereas it is during the *life* of one of these beings that the law requires the aid of medical science in the solution of these questions. The reader will find, in the "Med. Times and Gaz.," an account of some remarkable cases of sexual malformation by Mr. Curling (Jan. 24, 1852, p. 84); by Mr. Fletcher (Feb. 7, 1852, p. 136); by Mr. Broadhurst (Feb. 21, 1852, p. 187); and by Mr. Waters (May 21, 1853, p. 538). Other cases, reported by Mr. Mann and Mr. Churchill, will be found in the "Association Journal," 1853 (Aug. 19, p. 720, and Sept. 9, p. 799).

Mixed Cases.—A case has been already mentioned in which neither

testicles nor ovaries were found after death, and more than one instance has occurred in which both have been found—a case of intermixture of the sexes or real hermaphroditism, physically speaking, but of course without the functional power of self-impregnation. The following case is mentioned by Briand: The subject was about eighteen years of age when he died. The body was partly that of a male in configuration, and partly that of a female. An examination of the sexual organs, externally, led to no satisfactory distinction; and on inspection after death a testicle was found in what was supposed to be the left labium, with an epididymis and a spermatic cord attached to it as usual; while on the other side were an ovary, Fallopian tube, and the rudiments of a uterus. The authenticity of this case was for some time a matter of dispute; but another, equally singular in its features, occurred to Prof. Mayer, of Bonn. This case clearly shows that such extraordinary deviations may be met with in nature. The person examined by Mayer died in 1835, at the age of 55. Different opinions had been formed during the lifetime of the being respecting the sex, by the first anatomists in Europe: some affirming that it was a male, while others contended that it was a female. This difference of opinion is sufficient to prove that an *external* examination does not always enable even a good anatomist to pronounce an opinion on the probable sex of the being. In the dead body was found, on the right side, a withered testicle, with a penis and prostate gland, as male peculiarities; while on the left side was an ovary, with a uterus, vagina, and Fallopian tube. ("Med. Gaz.," vol. xix. p. 135.) It should be stated that the general configuration of the body in this case was that of a female; but there was a duality of sex. The right half of the body was male, and the left half female.

Causes.—The causes of malformation of the sexual organs, as of all other kinds of monstrosity, are involved in mystery. We know that in the early part of utero-gestation, the sex of a fœtus cannot be distinguished; while, even when it has reached the fourth month, the genital organs are so similar that the sex can seldom be determined on inspection. Some organs or parts appear to be formed by equal and symmetrical portions, which gradually approximate and unite in the median line of the body. We observe this mode of union in the bones of the head, chest, and spine, as also in the various fissures (raphes) of the skin, which are the remains of a union between two equal and symmetrical parts of an organ, now become one. In regard to defects in organization, it may be remarked that they almost invariably occur in or about some part of the median line; and they appear to proceed from a mere arrest of growth or development of those particular parts, either on one side or both, during the early stage of uterine existence. In this respect, the fissures sometimes observed in the palatine bones, in the palate itself, or in the lip—the openings occasionally noticed in the chest, diaphragm, anterior parietes of the bladder, as well as in the spinal canal, are precisely analogous in origin to the defective development of the sexual organs. There is nothing absolutely removed or lost, but there is an arrest of development; an opening, or fissure, which

nature intended to be only temporary, becomes permanent by reason of an arrest of growth. In the evolution of the male genital organs, the part corresponding to the scrotum is at first always divided by a considerable fissure: and the penis and clitoris having, at this period of life, much the same kind of physical exterior, the sexual organs cannot be well defined. Should this fissure in the male not be afterwards filled up, then we shall have the most common variety of sexual malformation—the hermaphroditic form, with the male predominating. These observations are not, of course, applicable to those cases in which the sexes are positively mixed. In these instances there appears to be a separate sexual organization on the two sides of the body, with an imperfect development of each set of sexual organs. According to Weber, there is in the prostate gland a rudimentary uterus in every male. ("Baly and Kirke's Recent Advances in Physiology," 1848, p. 112. Also papers by Dr. Knox, "Med. Gaz.," Nov. and Dec. 1843.)

One circumstance is worthy of note, namely, that sexual monstrosity appears occasionally to occur in the successive pregnancies of a well-formed female. The late Dr. Lever met with a singular instance of this in a female aged 28. She had given birth to four children in three confinements, the first being a twin labor; both the children males: and in both there was an arrest of development of the sexual organs. On the third delivery the child was a male, and its sexual organs presented the same deformity as those of the twins. ["Med. Gaz.," vol. xxxviii. p. 946.)

Legal Relations.—These beings, owing to defective development, are impotent and sterile. Questions connected with the legitimacy of offspring, divorce and affiliation may, therefore, be raised with respect to them. Sexual monstrosity is not a ground for depriving a being of the rights of inheritance except under peculiar legal conditions. Thus a right of succession or inheritance to landed estate may depend upon the *sex* of the offspring—as where, for instance, two children are born, the first hermaphrodite, the second a well-formed male child. The parents die, and a title of nobility or lands may fall to the first-born male. Here the sex of the first-born must be determined before possession can be had. In a case of this kind, if medical evidence should establish that male peculiarities predominate in the first-born, the second child would be cut off. Again, if an estate were limited by entailment, as where it is settled upon heirs male and female of a particular family, the birth of an hermaphrodite, an only child, would create the legal necessity for a positive determination of the predominance of sex. So, if the hermaphrodite live but a few minutes after birth, and then die, the rights of persons may be subsequently much affected by the medical attendant having come to an opinion respecting its sex. Since we cannot determine under what circumstances litigation may ensue, it is always right in a doubtful case to observe the sex, and make notes on the spot when a child thus malformed survives its birth but for a short period. The question of tenancy by courtesy, or the right of the husband to landed estate of which the wife was seized, will depend

entirely upon the attention of the accoucheur to this point. (See "Tenancy by Courtesy," ante, page 535.)

When these beings have reached adult age, other questions may arise with respect to them. According to an old law of France, an hermaphrodite was permitted to choose one sex, and thereafter compelled to keep it! Hermaphrodites, or sexual monsters, were formerly ranked with infamous persons; and it has been a grave question in our courts, whether the calling a man an hermaphrodite was not such a libel or slander upon him as to render it a ground for a civil action. In a case reported by Chitty ("Med. Jour.," 374), the use of this term was held not to be actionable unless it was proved that it had been attended with special damage. A dancing-master brought an action against a party for calling him an hermaphrodite, and it was decided that it was not sustainable: 1. Because such a union of the sexes cannot exist in fact, and every one must be supposed to know it: consequently the assertion could not be supposed to prejudice. 2. Because, admitting the possibility of such a double function, the party would be just as good, and perhaps even a safer dancing-master, than if only one perfect sex had been discoverable; consequently the words would not, in legal presumption, injure him in his profession or occupation!

I am indebted to a learned member of the bar for a note on the remarkable case of the *Chevalier d'Eon*. There was a great dispute concerning the sex of the Chevalier, and it came before a court of law on an action to recover a wager under the following circumstances (*Da Costa* v. *Jones*, "Cowper's Reports," vol. ii. p. 729). The plaintiff claimed of the defendant a sum of three hundred pounds. On the 4th of October, 1771, plaintiff paid to the defendant seventy-five guineas, on the condition that he, the plaintiff, should receive from the defendant a sum of three hundred pounds in case the Chevalier d'Eon should at any time prove to be a female. The cause was tried before Lord Mansfield, at Guildhall, and the jury found a verdict for the plaintiff, damages three hundred pounds, thereby affirming that the Chevalier was a *female*. A motion was subsequently made on behalf of the defendant to arrest the judgment, or at least to stay the proceedings, on the ground that the action could not be supported, as being upon a wager tending to introduce indecent evidence, and also as being one which materially affected the interests of a third person. The question thus raised on the motion was argued before the court of King's Bench, and the judges unanimously agreed that the judgment must be arrested; the law not allowing wagers upon subjects leading to the introduction of indecent evidence (this being *contra bonos mores*), nor upon such subjects as are calculated to have an injurious effect upon the interests or character of a third person. Irrespective of this decision, the verdict was based upon what subsequently turned out to be untrue. The Chevalier was really a *male*, and not a female. He was carefully examined by Sir Anthony Carlisle, who satisfied all present of the perfect condition of the testicles. (See *Paris* and *Fonblanque*, vol. i. p. 229.)[1]

[1] [The Chevalier D'Eon had served as a military officer, had acted as a diplomatist, and had fought duels, but his appearance was very effeminate: and after he had re-

It would appear, from a singular case reported by Dr. Barry, that, in the United States, the rights of citizenship and the privilege of voting for members of Congress have depended on the determination of sex. In March, 1843, he was requested to examine the case of *Levi Suydam*, aged 23 years, a native of Salisbury, Conn. At the exciting and warmly-contested election of the spring of that year, almost everything bearing the semblance of the human form, of the male sex, is stated to have been brought to the ballot-box. It was at this time, and under these circumstances, that the above-mentioned person was presented by the whigs to be made a free*man*. He was challenged by the opposite party on the ground that he was more a female than a male, and that, in his physical organization, he partook of both sexes. The following was the result of the *first* examination by Dr. Barry. There was a mons veneris covered with hair in the usual way; an imperforate penis, subject to erections, and about two inches and a half in length, with corresponding dimensions; the dorsum of the penis was connected by the cuticle and cellular membrane to the pubis, leaving about an inch and a half free, or not bound up, and towards the pubic region. This penis had a well-formed glans; a depression in the usual place of the meatus urinarius, with a well-defined prepuce and foramen. The scrotum was not fully developed, inasmuch as it was but half the usual size, and not pendulous. In the scrotum, and on the right side of the penis, there was one testicle of the size of a common filbert, with a spermatic cord attached. In the perineum, at the root of the corpora cavernosa, an opening existed through which micturition was performed; this opening was large enough to admit the introduction of an ordinary-sized catheter. Having found a penis and one testicle, though imperfectly developed, Dr. Barry, without further examination, gave it as his opinion, that the person in question was a *male citizen*, and consequently entitled to vote and enjoy all the privileges of a free*man!*

On the morning of the first Monday in April (election day), Dr. Barry was informed that Dr. Ticknor would oppose Suydam's admission on medical grounds. Suydam came forward, and Dr. Ticknor objected to him as a *female*, and therefore not entitled to vote. Dr. Barry then stated to the meeting, that, from an examination he had made, he considered the person in question to be a male, and re-

sided some years in England, frequenting race-courses and gaming-houses in male attire, Mr. Dacosta wagered a large sum with Mr. Jones that the supposed Chevalier was a woman, and brought the action mentioned in the text, which resulted as there stated. Lord Campbell, speaking of this case, says: "Although the verdict was set aside on legal grounds, it was allowed to settle many other bets which had been laid on the same question. The Annual Register for 1766, p. 167, says, 'By this decision no less a sum than £75,000 will remain in this country, which would otherwise have been transmitted to Paris. The Chevalier has left England, declaring that she has no interest whatever in the policies opened on her sex.' The Chevalier, then assuming female attire, remained in France, supported by a pension from the French Government, for having long been a spy of Louis XV., till the breaking out of the Revolution in 1790. He then came to England, and, being in great distress, lived with a lady of reputation as her companion; but, dying in the year 1810, was found, on a post-mortem examination, to be indeed of the sex which he had originally claimed, and in all respects perfectly formed."—Lives of the Chief Justices, vol. 2, 324 (Life of Lord Mansfield.)—P.]

quested that Dr. Ticknor might, with the consent of Suydam, retire into an adjoining room, and examine for himself. This was done, when Dr. Ticknor ultimately came to the conclusion that Suydam was a male. Suydam accordingly was admitted a freeman; and his vote was received and registered.

A few days after the election, Dr. Barry heard that Suydam had regularly menstruated. The sister of Suydam informed him that she had washed for him for years, and that he menstruated as regularly, but not so profusely, as most women. Suydam, when questioned, very unwillingly confessed that such was the fact. He was again examined by two physicians, when the following additional particulars were elicited: Said Suydam is five feet two inches in height, light-colored hair, fair complexion, with a beardless chin, and decidedly a sanguineous temperament, narrow shoulders and broad hips; in short, every way of a feminine figure. There were well-developed breasts with nipples and areolæ. On passing a female catheter into the opening through which micturition was performed, and through which, he again stated, he had a periodical bloody discharge monthly, instead of traversing a canal and drawing off urine, the catheter appeared to enter immediately a passage similar to the vagina, three or four inches in depth, and in which there was a considerable play of the instrument. He stated that he had amorous desires, and that, at such times, his inclination was for the male sex: his feminine propensities, such as a fondness for gay colors, for pieces of calico, comparing and placing them together, and an aversion for bodily labor, and an inability to perform the same, were remarked by many. Dr. Barry further learned from an old lady, who was present at the birth of Suydam, that on the second day after his birth, Dr. Delamater, who attended as accoucheur, made with an instrument the opening through which he had ever since performed micturition. ("American Journ. of the Med. Sciences," July, 1847.)

This was certainly an embarrassing case—one to which Lord Coke's rule for a decision, *i. e.*, the prevalence of either sex, is hardly applicable. The presence of a penis and one testicle referred the being to the male, while the bodily configuration, and still more strongly the periodical menstrual discharge, referred him to the female sex. The right of voting might have been fairly objected to, because, while the female characters were decided, the organs indicative of the male sex are described as having been imperfectly developed.

Dr. Hartshorne, the American editor of this work, quotes a case in which an attempt was made by Dr. Gross, a surgeon in the United States, to destroy all sexuality, and thereby all rights of citizenship, in the case of an infant whose sexual organs were imperfect. (A report of this case will be found in the "American Journal of Med. Sci." for Oct. 1852, and the "Ed. Monthly Jour." for Jan. 1853.) The child, when seen by Dr. Gross, was three years of age, and had always up to that period been regarded as a girl, and in fact had been so pronounced at her birth by the accoucheur. At the age of two years she began to evince the taste, disposition, and feelings of the male sex; she rejected dolls and similar articles of amusement, and became fond of boyish sports. She was well grown, perfectly healthy, and

quite fleshy. Her hair was dark and long, the eyes black, and the whole expression most agreeable. A careful examination of the external genitals disclosed the following circumstances. There was neither a penis nor a vagina; but instead of the former there was a small clitoris, and instead of the latter a superficial depression or cul-de-sac covered with mucous membrane, and devoid of everything like an aperture or inlet. The urethra occupied the usual situation (in the female?) and appeared to be natural; the nymphæ were remarkably diminutive, but the labia were well developed, and contained each a well-formed testicle quite as large and as firm as this organ generally is in boys at the same age. The hips, chest, thighs, and upper extremities, were perfect. From this description it is pretty clear that the child was an *androgynus*, or there was imperfect development of the sexual organs, with predominance of those of the male. There was no indication of uterus or ovaries, nor any external peculiarity, except that which is frequently met with in hermaphrodites, in which there is an arrest of male development, but no intermixture of the sexes. Dr. Gross considered that for the child's future welfare and happiness, it would be better that it should have no testicles at all, than that it should retain them under such an imperfect development of the other organs. He therefore removed them by operation from the labia or divided scrotum, and had the dissatisfaction to find that they were perfectly formed in every respect, and that the spermatic cords were quite natural. The operation was performed in July, 1849, and three years subsequently (in 1852) it was found that emasculation was complete, for the disposition and habits of the being had materially changed, and were those of a girl: she was found to take great delight in sewing and housework, and she no longer indulged in riding sticks, and other boyish exercises.

The reasons assigned for the performance of this operation—namely, the entire deprivation of sex, and thereby of any sexual feelings in after-life—appear to me to be unsatisfactory. It is clear, from Dr. Gross's description, that this being was deprived of the rights and privileges of a *male* by the removal of the testicles. (See the case of *Levi Suydam*, *ante*, p. 574.) Dr. Gross appears to have contemplated the case only in a matrimonial point of view; but in a country where the rights of citizenship and power of voting for members of Congress are much valued, where they depend on direct proofs of sex, and are so strongly contested by opposing parties—it is a serious question whether he has not here struck a severe blow at the political rights of these beings, in thus wilfully destroying the physical evidence of the male sex! In this country it might have been a question whether he had not rendered himself liable in damages for thus tampering with the laws of nature.

Concealed Sex.—It is almost superfluous to say that in some cases sex cannot be determined by the dress, appearance, or even voice of the individual. Cases in which males have passed for many years unsuspectedly as females, and *vice versâ*, have been numerous. In some instances the secret has been disclosed only by death. Facts

of this kind belong rather to the annals of imposture than to those of medical jurisprudence. A somewhat singular case of this description, that of *Eliza Edwards*, occurred to me in 1833. An unclaimed body was sent to Guy's Hospital, by the Inspector of anatomy, as a female. On removing the dress, however, it was found to be that of a *male!* From some suspicion respecting the cause of death, and the habits of this person, a coroner's inquest was held. It turned out that the deceased, whose age was twenty-four, had assumed the dress of a female at the age of fourteen, and had performed in many parts of England as an actress. The features had a somewhat feminine character; the hair was very long, and parted in the centre; the beard had been plucked out, and the remains of this under the chin had been concealed by a peculiar style of dress. It was remarked during life that the voice was hoarse. The breasts were like those of a male, and the male sexual organs were perfectly developed. They had evidently been subjected to great traction, and appeared to have been drawn forward to the lower part of the abdomen. The state of the rectum left no doubt of the abominable practices to which this individual had been addicted. It was found that death had taken place from natural causes. The most remarkable circumstance in the case is, that the deceased had been attended in his last illness by an eminent physician (now deceased) for disease of the lungs; and so well was the imposition maintained, that his medical attendant did not entertain a suspicion of the real sex of his patient! ("Med. and Phys. Jour.," Feb. 1833, p. 168.)

IMPOTENCY. STERILITY.

CHAPTER LV.

IMPOTENCY.—CAUSES.—PROCREATIVE POWER IN THE MALE.—PUBERTY.—AGE FOR VIRILITY.—VIRILITY OF CRYPSORCHIDES AND MONORCHIDES.—STERILITY.—PROCREATIVE POWER IN THE FEMALE.—EARLIEST AND LATEST PERIODS FOR CHILD-BEARING.—LEGAL RELATIONS.

Definition.—Impotency is defined to be an incapacity for sexual intercourse. It may depend—1st, upon *physical*, 2dly, upon *moral* causes. With regard to the *moral causes* of impotency they do not concern a medical jurist. Such causes are not recognized by law, and he has no duty to perform beyond the application of the principles of medicine to the purposes of the law.

Causes.—Impotency may arise from *age*, from certain *physical causes*, *e. g.*, disease, or from congenital malformation or *defect*. With

regard to *physical* causes, a distinction must be made between those which are remediable and those which are not. The presence of a disease of the testicle, such as atrophy or fungous tumor, may give rise to incapacity; but this incapacity may be sometimes removed by an operation or by medical treatment, and therefore the physical cause may be removed: in other words it is *remediable.* To such cases as these the law does not extend; but it is always expected, in alleged incapacity, that the practitioner examined on the subject should be able to say whether there is or is not a prospect of cure. In forming a judgment upon this point a good knowledge of his profession can alone assist him; no rules can be laid down for his guidance, for there may not be two cases that will precisely resemble each other in their features. Hence it will be necessary in this place to point out the chief causes of impotency which are of an irremediable nature, or those in which the incapacity is absolute and permanent; a point upon which a medical opinion is chiefly required.

In strictness of language, the definition of impotency, as above given, may be applied to a *female* as well as to a male; and undoubtedly, a physical incapacity for sexual intercourse may exist in either sex. As an instance of this incapacity in the female, may be mentioned occlusion of the vagina—a condition not necessarily indicative of sterility. The mere occlusion of the vagina may be a remediable form of the malady; but its entire obliteration would be absolute and irremediable. This latter condition, however, is the only instance of complete impotency in a female. A protrusion of the uterus or of the bladder into the vagina is mentioned by some writers as a cause of physical incapacity for intercourse; but these forms of disease may be commonly remedied by art, and therefore require no further notice in this place.

In professional language, the term *impotency* has been hitherto applied exclusively to a defect in the *male* sex; and the term *sterility* is usually confined to all those conditions in the female which not only render intercourse impossible, but which render it unfruitful. A male may, however, be sterile without being impotent—a condition observed in some crypsorchides; or he may be impotent without being sterile, as where proper intercourse is prevented by reason of physical defect in the virile member, although the testicles may be in a normal condition. See on this subject, Curling on "Sterility in Man" (1864). This author points out that sterility in the male, apart from impotency, may depend on three causes—1st, malposition of the testicles; 2dly, obstructions in the excretory ducts; and 3dly, impediments to the escape of the seminal fluid. A man may not be impotent, *i. e.* incapable of intercourse, but, by reason of one of the conditions above-mentioned, such intercourse would be unfruitful.

In reference to the male, the English law does not appear to go beyond the establishment of impotency from some clear and demonstrable cause, and, unless the alleged sterility were accompanied by impotency, it would take no cognizance of that condition. Further, sterility from such causes could hardly be demonstrated during

the life of a person—it would rest chiefly on presumption or probability.

Procreative Power in the Male. Puberty.—Until the period of puberty the testicles are small, and they increase very little in size in proportion to other parts. Mr. Curling found that the size of the seminal tubes differed but little at the ages of 18 months and 8 years. The sexual function in the male depends entirely on the development of these organs; but the age at which it appears differs in different persons. The age of puberty in a healthy male in this country varies from 14 to 17 years; its appearance is, however, affected by climate, constitution, and the moral circumstances under which the individual is placed: in some cases it is not fully developed until the age of 21.

The access of puberty in the male is indirectly connected with the subject of rape. A boy under the age of *fourteen years* is presumed in law to be incapable of committing a rape. (1 Hale, p. 631, and Mathew's "Digest," p. 57.) This presumption is probably based on the supposition that a boy at that age is impotent. The statute law, however, now merely requires proof of penetration, and rape therefore may be physically perpetrated by a boy at or even under 14 years of age. In *Reg.* v. *King* (York Winter Assizes, 1853), a boy aged fifteen was convicted of rape on a girl under 10 years of age. In a case elsewhere related (see RAPE), a boy aged 19 communicated syphilis to a girl of 6 years of age. It appears that in India puberty shows itself much earlier in the male. Dr. Chevers, quoting from the "Nizamut Adawlut Reports," states that a boy of 13 or 14 years of age was found guilty of rape and sentenced, in consideration of his youth, to three years' imprisonment. A lad of fourteen was convicted of rape on a girl of the same age; and in another case a boy only *ten years* old, was convicted of rape on a girl 3 years of age! He was sentenced to a year's imprisonment. ("Med. Jur. for India," p. 463.)

The seminal secretion in the male is not considered to be prolific until it contains those peculiar filiform bodies which are known under the name of *spermatozoa* or zoosperms. These are regarded by some physiologists as parasitic animals, but by others, with some probability, as freely moving cilia. ("Recent Advances," Baly and Kirkes, 1848.) All agree that they are normal and essential constituents of the healthy and prolific seminal fluid. They are peculiar to the spermatic secretion, and, in healthy males, are always present in it after the age of puberty. They disappear in certain states of disease, and sometimes in advanced age: they have not been found in the undeveloped testicles of crypsorchides. In cases in which they are absent, from whatever cause, it is a fair inference that the person is impotent, or that he has lost the power of procreation. (See on this subject "Observations on Sterility in Man," by T. B. Curling, 1864.) In this pamphlet one case is related in which a man aged 42, who was married, and whose wife had borne a son then 8 years of age, had died after four days' illness from strangulated hernia. The testicles, from the fact of their being

found in the inguinal canal, were examined separately by Drs. Gosselin and Godard, and no spermatozoa were discovered in either of them; but these may have been absent at the time of examination, as the child begotten, was then eight years of age. In this long interval the secretion may have undergone a change, and have become unprolific.

Impotency from Age.—It may be fairly assumed that a male is incapable of procreating until spermatozoa have appeared in the seminal secretion, and that he loses this power when they disappear. The *age* at which they are formed varies with all the causes that affect puberty. In one instance they were found by Casper in the seminal fluid of a crypsorchid boy only 14½ years old, and Mr. Curling found them in the secretion of a boy aged 18. This gentleman found spermatozoa in the liquid taken from the testicles of a man upwards of seventy years of age, and on one occasion in the testicles of a person aged eighty-seven. Wagner states that they are to be found in the secretions of men between 70 and 80 years of age. M. Rayer found them in the secretion of a man aged 82 years ("Gaz. Méd." Juin 2, 1849). Other cases of a similar kind are recorded by Debrou. ("Gaz. Hebdom." 4th Janvier, 1861, p. 6.) Facts tend to render it highly probable that the fecundating power may be retained by the male up to the age of 100. According to Dr. Duplay, the seminal fluid of old men contains spermatozoa even when they are beyond the age for fecundation ("Med. Times and Gazette," June 4, 1853, p. 581); but he does not state the circumstances which enabled him to arrive at this conclusion. Sexual propensities are often strongly developed in children, and thus they may be prolific at an early age. Dr. Rüttel met with a case in which a female at the age of 14, became pregnant by a boy of the same age. ("Henke's Zeitschrift der S. A." 1844, p. 249.) This is the earliest age at which, so far as I can ascertain, the procreative power has appeared in the male. Dr. Hartshorne refers to an instance of extraordinary development of the male sexual organs in a child 4 years old. ("Amer. Jour. Med. Sci." Oct. 1852, p. 561.) In a case of contested legitimacy or affiliation, this question regarding the age at which a procreative power appears in the male, may have an important bearing on the issue. Thus the person may be so *young* as to render it impossible that he should be the father of a child imputed to him. Cases involving questions of legitimacy on this ground are not heard of in the present day: but in ancient law-books there are decisions relative to the illegitimacy of children born during marriage, because the alleged fathers were 7, 6, and even 3 years old! (Amos.)

The following case in reference to the affiliation of children occurred in 1840: A woman wished to affiliate a child on a youth who was in his *sixteenth* year. The boy denied that he was the father of the child; and there was reason to suspect that the imputation had been wrongly thrown upon him in order to divert suspicion from the real offender. There was some difficulty in this case; but it appears to me that the rule for a medical man to follow on these occasions is this: not to regard the mere *age* of the youth, whether he is above or below the average age of puberty, but to observe

whether the sexual organs are fully developed, and whether there are about him any of the marks of virility, indicated by muscular development, the growth of a beard, and a change in the voice. If these signs are present, whatever may be his age, there is strong reason to suppose that the sexual functions are developed. We occasionally hear of instances of extraordinary precocity; but the development of sexual power is generally accompanied by other well-marked changes in the person. Sometimes these changes do not make their appearance until after the age of 21. [Some remarkable cases of precocious puberty are given in Wharton and Stillé's Medical Jurisprudence, § 424.—P.]

On the other hand, it may be a question at what time the procreative power disappears in a male. That impotency is one of the natural consequences of *advanced age* is undoubted: but this, as we know, forms no legal impediment to the marriage of parties, however old. The legal presumption is, that the generative faculty does not disappear through age; and if this be alleged, and legitimacy disputed on this ground, it must be satisfactorily proved by those who would benefit by the allegation. This amounts to almost an impossibility, because it is well known that there is no fixed age at which the sexual functions cease either in the male or the female; and individuals, at least of the male sex, who had passed the ages of 60, 70, and even 80 years, have been known to be capable of fruitful intercourse. M. Dunley believes, from his anatomical observations on the bodies of aged persons, that the cause of impotency (sterility) in advanced age are to be found rather in the excretory than in the secretory apparatus. Thus he has met with obliterations in the canal of the epididymis, the vas deferens, and the vesiculæ, the effect of which is to prevent the accumulation and passage of the seminal fluid. ("Med. Times and Gazette," June 28, 1856, p. 650.) Lord Erskine, in the *Banbury Peerage* claim, quoted the case of Sir Stephen Fox, who was married at 77, and had four children, the last when he was 81. Dr. Schneider met with a case in which a man of 71 had a child by his wife, who was only 17. ("Henke's "Zeitschrift," 1842, vol. 2, p. 165.) Dr. Rüttel mentions the case of a man who, at the age of 92 years, married and had two children by his wife. When the procreative power even appears to be lost at an advanced age, the stimulus for intercourse is often very great. The same authority mentions cases in which these erotic feelings were remarked by him in reference to men between 75 and 86 years of age. (Henke's "Zeitschrift," 1844, p. 252.) In all cases of prolonged virility it is observed that the bodily and mental powers are also retained in an extraordinary degree, showing the close relation which exists between the sexual function and corporeal and mental development, even to the latest period of life. Sir S. Romilly remarked in reference to the retention of procreative power in advanced age, that the liberality of the English law on this subject was excessive; for there was no age, from *seven* upwards, at which a man had been denied the power of procreating children! (See, in reference to this subject, Henke's "Zeitschrift der S. A.," 1842, p. 332.)

Males at the age of 14, and females at the age of 12, are legally competent to contract marriage.

Impotency from Local Disease or Accident.—The loss or destruction of the penis or testicles, either by disease, accident, or from necessary operations, would be sufficient to render a man irremediably impotent. The loss of one or both testicles, from any of these causes, would be indicated by the presence of distinct cicatrices in the scrotum. When both have been removed by operation, the person is incurably impotent; but if the organs are healthy, a sufficiency of the spermatic fluid to confer procreative powers may remain in the ducts for two or three weeks after the operation. Thus it is that animals have been known to be prolific for a certain time after castration; and one case is on record in which a man, both of whose testicles had been carried off by a gunshot, is said to have retained the power of impregnating his wife after the healing of the wound. (See a paper by Dr. Krugelstein, Henke's "Zeitschrift," 1842, vol. 1, pp. 348 and 352.) The loss of *one* testicle only, by accident or operation, does not render a man impotent. *Monorchides*, as they are called, have been known to be prolific. Cases of this kind must not be confounded with those in which one or both testicles have not descended into the scrotum.

In some rare instances, the testicles do not descend into the scrotum at the usual period; but one or both may remain in the abdomen, or in the inguinal canals, and only descend some time after birth; or one may be found in the scrotum, and the other remain during life in the abdomen, or both may be retained in the abdomen. In some cases of partial descent the organs have been mistaken for, and treated as, ruptures by the application of a truss! (Henke's "Zeitschrift der S. A." 1844, vol. 1, p. 249; Curling on "Disease of the Testis," 2d ed. p. 31.) In one instance the attempt to reduce the tumor, mistaken for hernia, and the application of a truss, caused the death of the person. ("Med. Times and Gaz.," March 2, 1861, p. 240.) When one testicle only has descended, there is no ground, cæteris paribus, to impute impotency: the descended organ has been found healthy, and to contain spermatozoa, while the retained testicle and its ducts have not been found to contain spermatozoa. Mr. Curling has collected six of these cases, of which four fell under his own observation. ("On Sterility in Man," 1846, p. 6, and "Med. Times and Gaz.," Feb. 23, 1861.) When neither testicle has descended, the scrotum will be found empty, without any scar indicative of a removal by operation, but the other marks of virility may still be present. These persons have been called *Crypsorchides*. It has been stated that in such cases the testicles are to be regarded as congenitally defective, and further that the individual, although capable of sexual intercourse, is incurably sterile.

The non-descent of the testicles is a state rarely seen. Mr. Marshall met with only one case of non-descent of one testicle in 1,000 recruits, and with one case of non-descent of both testicles in 10,000 recruits. There are three preparations, showing the non-descent of these organs, in the Museum of Guy's Hospital: one of them was

taken from a gentleman who shot himself from despondency at his supposed defective condition. Hunter thought that the undescended testicles were always imperfect both in their structure and functions, and that crypsorchides were invariably impotent (sterile). Some recent researches have tended to support the views of Hunter. In January, 1860, Mr. Partridge communicated to the Pathological Society the case of a man of 25, in whom both testicles were found in the abdomen. Several specimens of the secretion were examined, and no spermatozoa were detected. Another case was examined with a like result ("Lancet," January, 1860, p. 66), and a third by Mr. Curling ("Med. Times and Gaz.," February 23, 1861). The conclusion to which these observations have led is, that although in cases of non-descent there may be a capacity of sexual intercourse, it would not be prolific: the person will be sterile. According to this view, malposition of the organs must be taken as synonymous with defective condition: as a result of this malposition they are not capable of secreting prolific spermatic fluid, and the person is as sterile as if he had no testicles. The cases of monorchides reported by Mr. Curling (Op. cit. p. 8) to some extent support this theory, since spermatozoa were found only in the fluid of that testicle which occupied its usual position in the scrotum. He has also collected from various sources seven cases of crypsorchides, in which both testicles were either in the abdomen or in the inguinal canals; the fluid contained in them was destitute of spermatozoa, and although impotency did not exist, these persons either were or were presumed to be unprolific. M. Godard has noticed that horses whose testicles are retained in the abdomen, although capable of intercourse, are sterile.

On the other side of the question there are, however, facts which are wholly inconsistent with this theory. Many years since I published the account of two cases of crypsorchides communicated to me by my friend and colleague Mr. Cock. The testicles in these men had not descended, but their virile functions were undisputed. One of them, before he had reached the age of 30 years, had been twice married, and had had children by each wife, besides illegitimate children which were affiliated on him during the time he lived in service. In a report of cases of hernia by Mr. Poland ("Guy's Hospital Reports," 1843, vol. 1, p. 163), there is the case of a man, aged 29, a crypsorchid, whose testicles had never descended. Mr. Poland states that there was not the slightest trace of scrotum; the penis was well-developed, and there were all the other signs of virility. This man married when he was 20: he had had two children by his first wife, and at the time of his admission into the hospital had been married two years to a second wife. In January, 1862, I saw, in Guy's Hospital, a patient under Mr. Durham: the testicles of this man had not descended—they were lodged in the inguinal canals. The man was 32 years of age, well-developed, with every appearance of virility about him, and with the same masculine development which is seen in other men of the same age. This man was married, and had had two children by his wife. Since puberty he had always been competent, and he ridiculed

the idea that his testicles were inefficient. Another case is referred to by Mr. Curling (Op. cit. p. 9), which occurred to Dr. Debrou, of Orleans. The testicles were in the inguinal canals; there was no scrotum. The man had been married, and had had one son by his wife. These facts prove that crypsorchides, in some cases, have a power of procreation like normally constituted men. Casper relates a case in which a crypsorchid was charged with an unnatural offence. He was a boy between 14 and 15 years of age, and it appeared that he had been guilty of unnatural conduct towards another boy 8 years of age. Spermatozoa were detected by Casper on his shirt sixteen days after the act. On examining the boy, both testicles were found in the inguinal canals. ("Ger. Med." vol. 2, p. 187.)

By these facts, therefore, it is satisfactorily established that crypsorchides are not necessarily sterile, and that no absolute rule can be laid down respecting the existence or non-existence of prolific power under such circumstances. It has been objected that in the above instances of prolific power spermatozoa have not been proved to exist in the spermatic secretions of the individuals, and that the evidence is therefore incomplete. But these bodies have not been proved to be absent, and most persons will agree that there is no better evidence of prolific power than the procreation of children, whether spermatozoa are or are not detected; a matter which will sometimes depend on the accuracy of observation or experience of the examiners or, it may be, on a morbid state of the secretion. If none were found under these circumstances, it would only prove that our present theories of generation would require to be modified. One affirmative instance is sufficient for all the purposes of law, to overthrow ninety-nine negative instances; and as a physiological fact, it is obvious that the organs which have not descended are not always defective in structure or function. The cases hitherto observed are so nearly balanced that it is difficult to say whether it is the rule or the exception that crypsorchides should be found prolific; the facts above mentioned clearly prove that there is no reasonable ground for pronouncing them to be absolutely sterile or unprolific merely because their testicles are not in the scrotum. If with a non-descent of these organs there should be a non-development of the other external organs, and this is accompanied by a total want of the characters of virility, then the person may be impotent or sterile. The testicles may, in such a case, be either congenitally absent or physically imperfect; a fact only ascertainable by an examination of the body after death. On the other hand, in cases in which there are no external marks of effeminacy, or other grounds for suspecting a want of procreative power, and the person is capable of sexual intercourse, this imperfection does not offer any bar to marriage, nor is it a sufficient ground for divorce. It would not justify a medical man in denying the paternity of a child on a question of affiliation, bastardy, or inheritance; and so long as a power of sexual intercourse existed, it would not justify him in pronouncing a person to be incurably sterile. The capacity for sexual intercourse is the fact to which the English law commonly looks on these occasions. If this exists, then it will hardly entertain the question—surrounded

as it may be with conflicting medical opinions—whether, from the mere retention of the organs in the abdomen, the fluid secreted is or is not, microscopically speaking, of a prolific nature? Women may be sterile from a variety of causes affecting the internal organs, only ascertainable after death. The ovaries may be so diseased that no prolific intercourse can take place, although there may be no physical incapacity. In a case related elsewhere, the incapability of *conception* on the part of a woman was held by Dr. Lushington not to be a sufficient ground for pronouncing a sentence of nullity of marriage (p. 594;) and doubtless the want of power on the part of a man to effect impregnation, unless it depended on some visible physical defect, would be viewed in a similar light. Such persons are not impotent but sterile, and sterility in an irremediable form is rather assumed than demonstrated to exist.

The presence of what have been called supernumerary testicles does not affect the virile powers of the individual. These have in general been found, by dissection, to be tumors connected with the healthy glands, and not at all adding to or interfering with their functions. Even the presence of two or three penes, according to Mende, is no bar to the exercise of sexual power, provided only one possesses the normal characters of the male organ. ("Ausführl. Handb. d. ger. Med.," vol. 4, p. 337.) In the summer of 1865, a Portuguese youth, aged 19, I. B. dos Santos, was seen by many medical men in London. He was well formed except in reference to the sexual organs. He had two complete and well-formed penes, placed side by side; the right somewhat smaller than the left, and both subject to erection at the same time. He stated that he used the left in sexual intercourse. On the outside of each penis was a scrotum with one testicle fully developed. Between them was a shrunken scrotum which contained two testicles until he was ten years old, when they ascended into the abdomen. When the bladder acted, urine issued from both penes. An engraving of this remarkable malformation is given in the history of the case. ("Lancet," July 29, 1865, p. 124.)

In some instances there is an arrest of development in the external organs; and with this there is generally an absence of sexual desire. Certain diseases of the appendages of the testicles may, however, render a person sterile. The spermatic secretion is commonly suspended in most severe diseases which affect the body. A frequent cause of impotency (sterility) in the adult, when the organs are apparently sound, is spermatorrhœa, arising from abuse. This, however, is remediable to a greater or less extent by treatment. (See Curling, "Diseases of the Testis," 2d ed. p. 386; also "Med. Times and Gazette," Jan. 23, 1858, p. 95.) The incapacity for intercourse in either sex may arise from *extensive disease* affecting parts in and around the organs of generation. The medical opinion here must be regulated entirely by the circumstances attending each case.

On the absence of the penis, as well as on its defective organization, as causes of incapacity, some remarks have been already made. Sometimes the defect is merely connected with the urethra. Thus the orifice may be on the dorsum penis, and in other cases under-

neath the organ, so that the urethra may terminate at a variable distance from the glans penis. Those laboring under the former defect are said to have *epispadia*, and under the latter *hypospadia*. The power to have fruitful intercourse will in either case depend on the situation of the urethral aperture. Rüttel knew an instance of a hypospadian having several children. (Henke's "Zeitschrift," 1844, p. 258.) Some doubt has existed respecting the virile powers of those who are affected with hypospadia. In September, 1850, a lad, aged 17, was summoned before the magistrates of Kidderminster on a charge of affiliation, in reference to the pregnancy of a girl aged 18. The defence was that he could not be the father of a child, because there was such a malformation of the penis as to prevent prolific intercourse. On examination the urethra was found to terminate on the under surface of the penis, about an inch and a half from the glands, by a small elliptical orifice, which allowed the urine to pass, but with some difficulty. One medical witness gave it as his opinion that it was not impossible, but highly improbable, that the defendant should possess procreative power; another freely admitted the boy's capacity, and the case was decided against him. ("Med. Times," Sept. 21, 1850, p. 321.) This decision was physiologically correct. When the urine can pass, the seminal fluid can pass; and the only question is, whether the intromission can be such as that the misplaced orifice should come in contact with any part of the vagina? This must depend on the situation of the orifice. [Cases illustrative of the fully prolific powers of hypospadians will be found in the "Med. Times," Sept. 14, 1850, p. 292, and Oct. 12, 1850, p. 392. An instance of the virility of an hypospadian has also been published by Mr. Noble, of Manchester, in the "Assoc. Med. Jour.," March, 1853, p. 236.] Similar remarks apply to epispadians. These malformations are sometimes remediable; but whether remediable or not, they are not, under any circumstances, to be regarded as absolute causes of impotency.

Impotency from General Disease.—The influence of local disease in affecting virility has been already considered. But there is a class of cases which may come before a practitioner, in which, with well-formed and healthy organs in the male, there will be a state of impotency. Sometimes this may depend on natural weakness of constitution, or on a want of proper development of the muscular and nervous systems: at other times it is due to certain diseases, and it is then of a temporary nature—persisting while the body is still suffering from the disease, and disappearing on recovery. As a converse fact, there are some diseases which appear to bring out the dormant virile powers of persons, or to excite to a higher degree of intensity those which already exist. Thus it is said that in convalescence from fever there is, occasionally, extraordinary salaciousness: but this statement requires confirmation. Again, there are diseases which neither interrupt nor affect the exercise of the sexual functions. As a general rule, diseases which do not affect the brain and spinal marrow, and which are not attended with great debility, do not prevent fruitful intercourse. On the other hand, diseases which are attended or followed by great debility, suspend or de-

stroy sexual power. Among these may be mentioned water in the chest, general dropsy, especially if attended with effusion in the sexual organs—nervous and malignant fevers which affect the brain—apoplexy, palsy, and other diseases which directly attack the brain or spinal marrow. These last-mentioned diseases probably act by suspending the secretion or altering the nature of the prolific fluid, as well as by preventing that erection of the male organ without which intercourse cannot take place. The sexual function is so intimately allied to bodily vigor and nervous energy, that the integrity of the one may be pronounced to be essential to the integrity of the other. Habits of drunkenness and the abuse of alcoholic liquids, tobacco, or opium, may give rise to impotency by the injury done to the brain and nervous system. (The reader will find this subject fully discussed by Mende, "Ausführl. Handb. der ger. Med.," vol. 4, p. 349.)

In *Wood* v. *Hotham*, Jan. 7, 1864, the defendant, a surgeon, was sued for a sum of money for his wife's maintenance. He alleged, in defence, that his wife had been guilty of adultery, and that one of two children born during the marriage was not his. He gave as a reason for this that at the time he was so ill that it was impossible he could have had connection with his wife. He, however, was then in the habit of sleeping with her, and he was sufficiently strong to go his round of daily visits. The learned judge, in remarking upon this point, said if such evidence were to be held sufficient proof of illegitimacy, the whole of the law relating to the access and non-access of a husband must be set aside. The jury returned a verdict for the plaintiff. [See the case of *Page* v. *Dennison*, 5 Casey, 420, cited ante.—P.]

Diseases and injuries of the spinal cord producing paraplegia have no direct effect on the testicles, but destroy the power to copulate. (Curling, Op. cit. p. 371.) When there is a wasting of the testicles, as a result of general paralysis of long standing, there can be no doubt of impotency; but Mr. Curling quotes a case from a foreign writer, in which, under paralysis (paraplegia) of some years' duration, a man retained sufficient sexual power to have prolific intercourse. When the paralytic person is advanced in age, it is highly probable that he is impotent. In December, 1857, a case was referred to me, in a question of bastardy, for my opinion on a capacity for intercourse under the following circumstances. A woman required an order of affiliation on the putative father of her bastard child. She was a widow, and the illicit connection took place about two months before her husband's death. The husband was at the time 84 years of age; he was bedridden, and for many weeks before his death he could not move in his bed, and was unable to pass his urine without assistance. The medical opinion of those who examined him was that he was impotent from physical infirmity, and in this opinion I concurred; stating, however, that unless the male organs were diseased or destroyed, it could not be said that intercourse was impossible. It was, however, wholly improbable that the husband could have been the father of the child.

Blows on the head or spine, by affecting the brain and spinal marrow, may produce impotency. Several cases of impotency from this cause are related by Curling (op. cit. p. 362). It has been noticed that blows on the under and back part of the head, in the region of the cerebellum, have been followed by loss of sexual power on recovery. Sometimes this is temporary; but at other times, when there is wasting of the testicles, it is permanent and irremediable.

Of *moral* causes it is unnecessary to speak. The sexual desire, like other animal passions, is subject to great variation; and there are instances on record in which men, otherwise healthy-looking and healthily formed, have experienced no desires of this kind. They are in a state of natural impotency—a condition which the Canon Law designates as frigidity of constitution. This is not to be discovered by external examination, but rather from their own admission. Under this head we may class hypochondriacal affections.

Sterility. Definition.—Sterility is usually defined to be "the inability to procreate, or a want of aptitude in the female for impregnation. It is not usual to speak of sterility in the male, although there may be procreative incapacity; because the defective condition in this sex, from whatever cause, is, in a legal point of view, included under the term "impotency" (see p. 578, ante). In the strictness of language, a male who has been castrated is sterile; but it is commonly said that he is impotent. Many apparently well-formed males may be sterile without being impotent, *i. e.* they may have intercourse without procreating; for the power of copulating must not be confounded with that of procreation. Mr. Curling has pointed out that various causes may render a male sterile, although he may retain a power of sexual intercourse, and thus cannot be regarded as impotent in a legal sense. ("Diseases of the Testis," ed. 2, p. 216.) Some crypsorchides may be sterile, or deficient in procreating power, while at the same time impotency or incapacity for intercourse may not exist. In reference to women, sterility implies that condition in which there is an "inability to conceive." This appears to be the true meaning of the term, and the sense in which it is used not only by the best writers but in common phraseology.

Procreative Power in the Female. Puberty.—In the *female*, the procreative power is supposed not to exist until after the commencement of menstruation, and to cease upon the cessation of this periodical secretion. The menstrual function is commonly established in females in this climate between the ages of *fourteen* and *sixteen;* but it may occur much earlier—indeed, in some rare instances, a discharge resembling the menstrual has been known to occur in mere infants. In other cases its appearance has been protracted to a much later period. According to Dr. Rüttel, the menstrual function appears in the smallest number of females at 12, 13, and 14, and in the largest number at 16, 17, and 18 years. In some it is only first established at from 19 to 21 years; and he states that at this age he has often found the uterus small and quite undeveloped. The earliest and latest periods in a large number of cases were respectively 9 and

23 years. ("Lancet," Nov. 30, 1844, p. 283.) Perhaps, in this country, the most frequent age for the commencement of menstruation may be taken at 15 years. It is liable to be accelerated in its appearance by certain moral and physical conditions under which a girl may be placed. The most common intervals for the appearance of this function are twenty-eight and twenty-one days. It sometimes does not appear until late in life. Dr. Camps found it had not appeared in a married woman, æt. 30, who had borne no children. ("Med. Gaz.," vol. 32, p. 409.) Another case is mentioned in the same volume where it appeared for the first time at the age of 47 (p. 567.) So soon as this function commences, a woman may be considered to have acquired procreative power; but a female may conceive before the function has commenced, during the time of its occurrence, or after it has ceased. From facts elsewhere stated there is some reason to believe that the period which immediately precedes or follows the discharge is most favorable to conception: although the experience of many accoucheurs has shown that impregnation may take place at any time between one menstruation and another.

It is important to remember that these changes in the uterus may produce remarkable effects by sympathy with the brain and nervous system. At or about the time of puberty, especially if any cause of obstruction exist, females become irritable, easily excited, and they have been known to perpetrate, without motive, crimes of great enormity, such as murder and arson. A propensity to steal is also stated sometimes to manifest itself. (see post, KLEPTOMANIA.) It has been remarked that acts of arson have been frequently committed by girls at this period of life, and the crime has spread by imitation. The state of the mind should be therefore carefully watched at this time, and any causes of violent excitement removed. Irregularity, difficulty, or suppression of the menstrual secretion may give rise to temporary insanity. Puberty in the male may be attended with similar morbid propensities, but these are not so commonly witnessed as in the female sex.

Pregnancy before Menstruation.—The previous occurrence of menstruation is not indispensable to pregnancy: many cases are on record in which women who had never menstruated have conceived and borne children. One case is reported in which a woman, aged 25, became pregnant and bore a child, and menstruation was only regularly established afterwards. ("Lancet," February, 1842.) Dr. Murphy mentions another instance of pregnancy previous to menstruation in a woman aged 23. ("Obstetric Reports," 1844, p. 7.) Numerous cases of conception without previous menstruation are quoted by Capuron ("Méd. Lég. des Acc.," p. 96); and no fewer than nine instances of pregnancy before menstruation have been collected by Mr. Whitehead. The women were all in excellent health during the whole time, and one did not menstruate until more than two years after the marriage had been consummated. ("On Abortion," p. 223; see also Orfila, "Méd. Lég." 1848, vol. 1, p. 257.) Another case will be found reported in the "Medical Gazette" (vol. 44, p. 969). Dr. W. Taylor met with an instance in which a girl aged

13, bore a child before menstruation had appeared. ("Med. Times and Gazette," March 12, 1853, p. 277; see also, for remarks on this subject, "Edin. Monthly Jour.," July, 1850, p. 73.) The late Dr. Reid has stated that a patient of his bore a child at the age of 17 without having previously menstruated; and he collected from various authorities a number of cases of pregnancy occurring in women who had not menstruated. ("Lancet," September 3, 1853, p. 296.) [At a recent meeting of the College of Physicians of Philadelphia (Sept. 4, 1861), Dr. R. P. Thomas stated that he had lately, for the third time, attended in confinement a lady who had been married about twelve years and had given birth to six healthy children, although she had never menstruated. She was married at 22, and had always enjoyed good health; her labors were natural, with but little show and no subsequent lochial discharge. Dr. Hays, on the same occasion, mentioned the case of a lady patient of his, who had menstruated very rarely, not oftener than once a year, and yet had borne six healthy children at intervals of fourteen months, and was a healthy woman.

The slight hemorrhage and absence of the lochia in the patient of Dr. Thomas reminds us of a very curious observation reported by Dr. O. C. Gibbs, in which he found that he had removed the placenta from a patient without encountering bloody fluid enough to stain his hand!—H.]

Instances of *premature puberty* in the female are now numerous: they are far more common than in the male sex. Mr. Whitmore met with the case of a female child who, from a *few days* after birth menstruated regularly, at periods of three weeks and two or three days, until she had attained the age of 4 years, when she died. On inspection after death she appeared like a much older girl. The breasts were unusually large, and the female organs and lower limbs were considerably developed. ("North Jour. Med.," July, 1845, p. 70.) Another case is reported in the "Lancet" (January 29, 1848, p. 137); this was a child aged 3 years. The breasts were as healthily developed as in an adult of 20 years, and the sexual organs were also as much developed as in a girl at the age of puberty. It was observed that this child, who had been regularly menstruating for twelve months, had the appearance of a little old woman. (For other cases of menstruation at 5 years, see "Med. Gaz.," vol. 25, p. 548; at 3 years, vol. 47, p. 244; and at $3\frac{1}{2}$ years, "Med. Times and Gazette," July 24, 1858.) In these instances there is great reason to believe that a procreative power is also early developed; but it is not common to hear of such young females becoming impregnated. A case is mentioned by Dr. Beck, in which a girl menstruated at 1 year; she became pregnant and was delivered of a child when little more than *ten years* old. Dr. Walker met with a case in which the menstrual function was established at the age of $11\frac{1}{2}$ years, and the patient was delivered of a living child when only 12 years and 8 months old. ("Amer. Jour. Med. Sci.," October, 1846, p. 547.) In another, observed by Rüttel, already referred to, a female of the age of *fourteen* became pregnant by a boy of the same age. He also

quotes three other cases, where one girl of the age of *nine*, and two of the age of *thirteen*, became pregnant (loc. cit.). The first of these three cases represents the earliest age for pregnancy yet assigned by any author. Dr. Wilson met with an instance in which a girl at the age of 13 years and 6 months gave birth to a full-grown child: conception must have taken place when she was 12 years and 9 months old. ("Edin. Med. Jour.," October, 1861. See also Casper's "Vierteljahrschrift," January, 1863, p. 180.) Mr. Robertson mentions the case of a factory-girl who became pregnant in the eleventh year of her age. In a case communicated to me a girl menstruated at ten years and two months, and became pregnant when eleven years and eight months old.

Age at which Menstruation ceases. Menstrual Climacteric.—The average age at which this function ceases in women is usually from forty to fifty years: but as it may commence early, so it may continue late in life. In one case it has been known to cease at the age of 23, and in other instances it has continued to the age of 66 and even of 75 years. (Whitehead, op. cit. p. 145 et seq.) Dr. Royle describes three cases in two of which menstruation continued up to the age of 67. ("Med. Times and Gaz.," Nov. 1860.) Mr. Thomas met with a case in which a woman had ceased to menstruate at the age of forty-five, but the discharge suddenly reappeared after an attack of illness when she had reached the age of sixty-nine. The discharge appeared several times, but not with monthly periodicity. It seems that her mother and sister had also menstruated at the ages of 69 and 60. ("Med. Times and Gaz.," Aug. 7, 1852, p. 148.) In a case which occurred to Capuron, it continued beyond the age of 60 (op. cit. p. 98); but a more remarkable case, both of late menstruation and late pregnancy, is quoted by Orfila from Bernstein. A woman in whom the function appeared at 20, menstruated until her ninety-ninth year. Her first child was born when she was 47, and her seventh and last when she was 60. ("Méd. Lég." 4ème èd., 1848, vol. 1, p. 257; see also Briand, "Man. Complet de Méd. Lég.," 1846, p. 137.) From these facts, it is clear that it is impossible to fix the age of a woman by the period at which this "change of life" occurs. At the best, it can only be an average of a certain number of instances.

Is it possible for a Woman to become Pregnant after Menstruation has Ceased?—It is commonly asserted and believed that, after the cessation of menstruation, a woman is sterile. This is doubtless the general rule; but in a medico-legal view it is necessary to take notice of the exceptions. Mr. Pearson, of Staleybridge, communicated to the "Lancet," some years ago, the case of a lady, aged 44, who up to September, 1836, had given birth to nine children. After this the menses appeared only slightly at the regular periods until July, 1838, when they entirely ceased. Owing to this, she supposed that she was not liable to become pregnant; but on the 31st December, 1839—therefore eighteen months after the entire cessation of the menses—she was delivered of her tenth child. Hence conception must have taken place at from eight to nine months after the final cessation of the discharge.

Latest Age for Pregnancy. Fecundity.—Numerous instances are on record of women advanced in life bearing children. A case is reported in which a well-formed woman, who had been married nineteen years, did not bear a child until she had reached the age of *fifty*. (Schmidt's "Jahrbücher d. Med.," 1838, S. 65; Henke's "Zeitschrift," 1844, S. 251.) In this case it is stated that menstruation had ceased two years before conception. Rüttel observed in twelve women that they bore their last children at ages varying from 45 to 50 years. Ottinger met with an instance of a woman bearing a child at 50; Cederschjald with another, where the woman was *fifty-three* and menstruation still continued. Haller records two cases in which women at *sixty-three* and *seventy* respectively bore children. (Briand, "Man. Complét de Med. Lég.," p. 137.) Nevermann has drawn up a table in reference to the late ages of life in which women have borne children. Out of 1000 cases in 10,000 births, he found that 436 children were borne by females at the ages respectively—

Of 41 years	101	Of 48 years	8
42	113	49	6
43	70	50	9
44	58	52	1
45	43	53	1
46	12	54	1
47	13		

A case was communicated to the "Medical Gazette" (vol. 39, p. 950) by Dr. Davies, of Hertford, in which a woman was *fifty-five* years of age when her last child was born; she menstruated up to that time. In *Lord* v. *Colvin* (Vice-Chancellor's Court, July, 1859), one of the questions raised was whether a woman æt. 52, who had been married thirty years without having children, had then passed the age of child-bearing: her issue would in that case take the benefit of certain property under a will. It was decided that the woman had not reached an age at which it could be said to be impossible that she might bear children. In a return of the Registrar-General for Scotland (Feb. 1862), it is stated in the Table for Glasgow, that one mother who was only 18, had had four children, one who was 22 had had seven children, and of two who were only 34, the one had had thirteen and the other fourteen children. On the other hand, two women became mothers as late in life as at 51, four at 52, and one mother was registered as having given birth to a child in the 57th year of her age. [Upon this point we have the testimony of Sir Edward Coke, who tells us that in his "time a woman above three-score yeares old hath had a childe." Co. Litt., 40, a.—P.] We cannot therefore pretend to fix the age beyond which pregnancy may not occur. Questions of this kind have an important bearing on the subject of legitimacy; and unless the law looks to something more than ordinary professional experience in such matters, the decisions of courts must be inequitable. In two recent cases, however, it appears to have been assumed that a woman could not bear a child after the age of 53. This was the decision of the Master of the Rolls in *Price* v. *Bousted*, and more recently the decision has

been followed by Kindersley, V. C., in *Haynes* v. *Haynes*. (Feb. 1866.) The petition in this case involved the question whether a single lady, aged 53 in December, 1865, could be considered as past child-bearing, and it was decided in favor of this assumption. These decisions are not reconcilable with the cases given at p. 592.

Causes of Sterility.—The causes of sterility in the female system are very numerous. Some of them depend upon peculiarities of constitution, the sexual organs being well formed and developed, others upon latent changes or congenital defects in the uterus and its appendages, only discoverable by an examination after death. Sterility rarely becomes a medical question in contested cases of legitimacy; for a claim on the part of a person to be the offspring of a particular woman, unless she were in collusion with the claimant, could only be made after her death: and if not disproved by medical evidence, showing that the woman could not have borne children, it would in general be easily set aside by circumstances. It may be most important to prove that a woman was in such a bodily condition that she never could have conceived or borne a child. If the uterus, ovaries, or other parts were congenitally defective or absent, or if there were external sexual malformation, accompanied by occlusion or obliteration of the vagina, a medical witness could have no difficulty in saying that the woman must have been sterile. ("Med. Times and Gazette," Jan. 23, 1858, p. 96.) A mere occlusion of the vagina, removable by operation, does not necessarily indicate sterility, for the internal parts may be healthy and sound.

Medico-Legal Relations of the Subject. Divorce.—Sexual malformation, involving impotency or sterility, constitutes one of the *canonical* impediments to marriage, and if matrimony be contracted by a party laboring under such malformation, the contract is voidable. The impediment constituting impotency may arise either from malformation, from that which the law calls frigidity of constitution, or any physical cause of whatever nature which may render intercourse impossible. When the physical defect is not apparent and irremediable, a continued cohabitation of three years is required before a suit can be entertained (Ayliff's "Parergon"); but according to Oughton—"hæc triennalis expectatio non est necessaria ubi statim possit constare de impotentiâ coeundi." A suit for a sentence of nullity may be promoted by either party, and the medical proof required to found a sentence must be such as to satisfy the court that the incapacity pleaded was in existence at the time of the marriage, and that it still remained without remedy. There should be no delay in instituting the suit, and there should be proof that the impediment was not known to the complaining party at the time of the contract. A longer delay in making the complaint is allowed to a female, without prejudicing her case, than to a male, by reason of the modesty of her sex. In a suit which came before the ecclesiastical courts in 1845, a singular question arose, whether, when there was a capacity for sexual intercourse on the part of a woman, with a certainty that from physical defect it could never be prolific, this was sufficient to entitle the husband to a divorce. On the part of the woman it was in-

sisted that in order to entitle a party to a sentence of divorce, there must be an utter *impossibility of* sexual intercourse. The case, it was argued, was one of mere sterility, which was no ground for a sentence. Dr. Lushington, in pronouncing sentence, said that mere incapability of *conception* is not a sufficient ground whereon to found a decree of nullity. The only question is, whether a female is or is not capable of sexual intercourse; or, if at present incapacitated, whether that incapacity admits of removal; a power of sexual intercourse is necessary to constitute the marriage-bond; and this intercourse must be ordinary and complete, not partial and imperfect; yet it would not be proper to say that every degree of imperfection would deprive it of its natural character. If it be so imperfect as to be scarcely natural, it is, legally speaking, no intercourse at all. As to conception, there is no doubt that the malformation is incurable. If there was a reasonable probability that the female could be made capable of natural coitus, the marriage could not be pronounced void; if she could not be made capable of more than an incipient, imperfect, and unnatural coitus, then it would be void.

From cases hitherto decided, it appears that in order to justify a decree of divorce on the ground of impotency or sterility, the impediment to intercourse or procreation should be established by good medical evidence, and it must be *apparent* and *irremediable;* it must also have existed before the marriage of the parties, and have been entirely unknown to the person suing for the divorce; if it has supervened after the marriage, this is no ground for a suit. The nature of the impediment is to be determined by private medical opinions or affidavits, based on an examination of *both* parties. There is one remarkable circumstance with respect to these cases; namely, that in nearly all of them the suit is by the woman against the man; although there is no reason whatever to suppose that impotency and sexual malformation are more common in males, than malformation and sterility in females. We rarely hear of a husband instituting a suit of divorce on the ground of sterility (incapacity of procreation) in the wife; it is, I believe, in most instances, that the wife promotes the suit on the ground of impotency or incapacity of intercourse in the husband. The difficulty of establishing incapacity in the female, and the facility of proving impotency from physical causes in the male, may probably account for this difference. Suits of this kind are sometimes instituted many months and years after the union of the persons; but it is pretty certain that the desire for separation in these cases often depends on some other cause, which the law would not recognize as sufficient of itself, while it would admit the plea of impotency. The French law very judiciously applies the principle of condonation to such cases, so that no suit for nullity of marriage can be entertained, if cohabitation has continued for six months after the discovery of the personal defect. This appears to be more consistent with justice than our own law, but practically these suits, after protracted cohabitation, are always regarded with great suspicion.

RAPE.

CHAPTER LVI.

SOURCES OF MEDICAL EVIDENCE.—RAPE ON INFANTS AND CHILDREN.—MARKS OF VIOLENCE.—PURULENT DISCHARGES FROM THE VAGINA.—EVIDENCE FROM GONORRHŒA AND SYPHILIS.—RAPE ON GIRLS AFTER PUBERTY.—DEFLORATION.—SIGNS OF VIRGINITY.

RAPE is defined in law to be the carnal knowledge of a woman by force, and against her will. Medical evidence is commonly required to support a charge of rape, but it is seldom more than corroborative; the facts are, in general, sufficiently apparent from the statement of the prosecutrix. There is, however, one case in which medical evidence is of some importance—namely, when a false accusation is made. In some instances, as in respect to rape on infants and children, the charge may be founded on mistake; but in others there is little doubt that it is often wilfully and designedly made for motives into which it is here unnecessary to inquire. The late Professor Amos remarked, that for one real rape tried on the circuits, there were on the average twelve pretended cases! In some few instances these false charges are at once set aside by medical evidence—in others, medical men may be sometimes the dupes of designing persons; but in the majority, the falsehood of the charge is proved by inconsistencies in the statement of the prosecutrix herself. I am informed that in Scotland, where there is a public prosecutor, and a careful preliminary inquiry, false charges of rape are exceedingly rare. The *consent* of the girl does not excuse or alter the nature of the crime when she is under ten years of age, since consent at this period of life is invalid; and the carnal knowledge of such a girl is rape in law, and is made a felony by the 24 & 25 Vict. c. 100, s. 50. Even the solicitation of the act on the part of a child does not excuse it.

[The provisions of the Revised Criminal Code of Pennsylvania, Act of 31st March, 1860, §§ 91, 92, 93 upon this subject, are as follows:—

§ 91. If any person shall have unlawful carnal knowledge of a woman, forcibly and against her will, or who being of the age of fourteen years and upwards, shall unlawfully and carnally know and abuse any woman child under the age of ten years, with or without her consent: such person shall be adjudged guilty of felonious rape, and on conviction, be sentenced to pay a fine not exceeding one

thousand dollars, and to undergo an imprisonment, by separate or solitary confinement at labor, not exceeding fifteen years.

§ 92. It shall not be necessary, in any case of rape, sodomy, or carnal abuse of a female child under the age of ten years, to prove the actual emission of seed, in order to constitute a carnal knowledge, but the carnal knowledge shall be complete upon proof of penetration only.

§ 93. If any person shall be guilty of committing an assault and battery upon a female, with intent, forcibly and against her will, to have unlawful carnal knowledge of such female, every such person shall be guilty of a misdemeanor, and, on conviction, be sentenced to pay a fine not exceeding one thousand dollars, and to undergo an imprisonment, by separate or solitary confinement at labor, not exceeding five years.—P.]

The duty of a medical witness on these occasions is very simple; and perhaps this will be best understood by considering the subject in relation to females at different ages. On being called to examine a person on whom a rape is alleged to have been committed, the first circumstance which a practitioner should notice is the precise *time* and date at which he is summoned, taking an early opportunity of comparing his watch with some neighboring clock. This may appear a trivial matter, and one wholly irrelevant to the duties of a medical practitioner; but it is to be observed that the time at which a surgeon is required to examine a prosecutrix may form a material part of the subsequent inquiry. It will be highly important to the defence of a person accused, if it can be proved that the female did not take the earliest opportunity to complain; and it may be also the means of defeating an alibi falsely set up for the defence. Medical evidence in cases of rape may be derived from four sources: 1. Marks of violence about the genitals. 2. Marks of violence on the person of prosecutrix or prisoner. 3. The presence of stains of the spermatic fluid or of blood, on the clothes of the prosecutrix or prisoner. 4. The existence of gonorrhœa or syphilis in one or both. This evidence will vary according to the following circumstances:—

Rape on Infants and Children.

The sexual organs should in these cases present marks of injury if the crime has been completed, and there has been *any resistance on the part of the child;* for it is impossible to conceive that forcible intercourse should take place without the production of ecchymosis, the effusion of blood, or a laceration of the pudendum. Even without reference to manual violence on the part of the assailant if an adult, the size of the male organ must generally cause much local injury in the attempt to enter the vagina of a child. If the violation has taken place within two or three days, the appearances presented by the parts may be as follows: 1. Inflammation, with more or less abrasion of the lining membrane. 2. A muco-purulent discharge from the vagina, of a ropy consistency and of a yellowish or greenish-yellow color, staining and stiffening the linen worn by the girl; the

mucous membrane of the urethra is inflamed, rendering the discharge of urine painful. 3. In recent cases blood may be oozing from the abraded membrane, or clots of blood may be found deposited in the vulva. 4. The hymen may be entirely destroyed, or (what is more commonly observed) it may present on careful examination one or more slight cuts or lacerations. Owing to the inflamed state of the parts, the proper examination of the hymen is rendered difficult—any attempt to separate the thighs for this purpose causing great pain. For this reason, also, the child walks with difficulty and complains of pain in walking. 5. Lastly, the vagina may be unnaturally dilated.

It has been propounded as a serious question, whether a rape can be perpetrated on children of tender age by an adult man; and medical witnesses at trials have adopted conflicting opinions. Some are inclined to regard all such charges as unfounded, and to seek for other medical explanations of the symptoms above described. This practice has been carried of late years to an undue extent, simply because many of these charges have been proved to be false; but common experience, supported as it is by the accurate observations of Casper ("Ger. Med.," vol. 2, p. 130), show that there is too frequently a real foundation for the charge in reference to children, and that a girl is not to be discredited merely because of her tender age. This would be conferring impunity on the acts of a vile class of offenders. In all cases there should be good medical evidence and a corroboration from circumstances.

For the *legal* establishment of the crime, proof of penetration only is demanded (24 & 25 Vict. c. 100, s. 63), and a sufficient degree of penetration to constitute rape in law may take place without necessarily rupturing the hymen. There must be medical evidence to show that, in a special case, there was actual penetration—the degree of penetration being quite immaterial. It is true that there could not be a complete introduction of the adult male organ into the vagina of a child without a rupture or laceration of the soft parts; but the absence of such marks of violence would not justify a medical witness in denying the perpetration of the crime, since the law does not require proof either of a complete or of a violent introduction. It has been decided that penetration to the vulva alone, is sufficient to constitute this crime. Medical men have sometimes fallen into an error on this point, considering that when the hymen was entire, rape could not have been committed; but the Statute Law says nothing about the rupture of the hymen as a necessary part of the medical evidence; it merely requires from the medical witness proof of vulval penetration—this may occur and the hymen remain intact.

In Scotland this question came formally before the judges in the case of *Macrae* (High Court of Justiciary, 1841). It was insisted by the prisoner's counsel, that there should be proof of full and complete penetration; and there was no sufficient evidence to show that penetration had taken place into the canal of the vagina beyond the vulva. Lord Meadowbank charged the jury to the effect, that the

evidence of the prisoner's guilt was complete: that scientific and anatomical distinctions as to where the vagina commenced, were worthless in a charge of rape; and that by the law of Scotland it was enough if the woman's body was entered. In a case like this, where there was no evidence of emission, and the girl was young, he did not consider it necessary to show to what extent penetration of the parts had taken place—or to prove that it had gone either past the hymen, into what was anatomically called the hymen, or even so far only as to touch the hymen. The prisoner was convicted. ("Cormack's Edin. Jour.," January, 1846, p. 48.) I am informed that up to the date of the case of *Macrae*, it had been the practice with the Scotch judges to require proof of *full* and *complete* penetration. See on this question a paper by the late Dr. Easton ("Glasgow Med. Jour.," July, 1859, p. 129). ["In this country the rule that there must be *some* entrance proved of the male within the female organ, but that neither rupture of the hymen nor emission need be proved, has been universally followed." Wharton & Stillé, Med. Juris., p. 471.—H.]

Marks of Violence on the Pudendum.—When there are no marks of violence or physical injury about the pudendum of a child, whether because none originally existed, or they existed and had disappeared in the course of time, a medical witness must leave the proof of rape to others. He can only answer questions of possibility or probability, according to the special facts proved. It is, however, in all cases his duty to be guarded in giving an opinion that a rape has been perpetrated, when there is a total absence of marks of violence on the genitals. It is true that rape in a legal sense may be perpetrated without necessarily producing such marks on a child, but then the proof of the crime will not depend on *medical evidence* only. The absence of marks of violence on the genitals, when an early examination has been made, furnishes a strong presumption that rape has *not* been committed on these young persons. It is obvious that a false charge might be easily made and sustained, if medical opinions were hastily given on the statements of a mother and child, when there was no physical appearance to corroborate the accusation. See on this subject a paper by M. Toulmouche, "Ann. d'Hyg." October 1 (8, p. 338).

Supposing at the period of examination no marks exist, it may be necessary to consider whether there has been time for them to disappear since the alleged perpetration of the offence; but in such cases it is rarely in the power of a medical witness to express an affirmative opinion of the perpetration of the crime: he should leave this to be proved by the general and circumstantial evidence. Casper met with a case in which a man æt. 37 committed a rape on a girl only eight years of age: he was seen in the act, and defended himself on the plea of drunkenness. The girl was examined by a medical man on the day following—the labia were then reddened, and there was injection of the membrane at the entrance of the vagina which was very sensitive. As an illustration of the rapidity with which the marks of rape disappear in young children, when

not attended with great physical injury, it may be stated that this girl was carefully examined by Casper *eleven days* after the assault. The sexual organs were then in their natural state: there was not the least appearance of local injury, and no inference could have been drawn at this date, that the girl had been subjected to any violence.

Medical practitioners are not always sufficiently careful in the inferences which they draw from an examination of children at distant periods after an alleged rape. They allow themselves to be deceived by a plausible story, apparently consistent, and thus see, or think they see, proofs of rape on examining the sexual organs of a girl many weeks after the alleged perpetration of the crime; whereas, had the girl been brought before them as a casual patient, and no suggestion of violent intercourse had been made, they would have probably ridiculed the idea of basing a charge of rape on so slender a foundation. The delay in having the examination made, unless satisfactorily explained, is in itself always a suspicious circumstance. In one case sent for trial to the assizes, but rejected by the Grand Jury, a medical man gave strong evidence that a rape had been committed on a girl seven years of age, although he did not examine her until *six weeks* had elapsed from the date assigned by the parents!

On the other hand, when marks of violence on the genitals are present, they must not be hastily assumed as furnishing proofs of rape; for cases are recorded in which such injuries have been purposely produced on young children by women, as a foundation for false charges against persons with a view of extorting money. The proof or disproof of facts of this kind must rest more upon general than on medical evidence, unless the injuries obviously indicate the use of some weapon or instrument. It should be remembered that the hymen is not always present in young children: it may be, according to some, congenitally deficient, or, what is more probable, it may have been destroyed by ulceration or suppurative inflammation of the parts, a disease to which female infants of a scrofulous habit are very subject. The mere absence of this membrane, therefore, can afford no proof of the perpetration of the crime, unless we find traces of its having been recently torn by violence.

Other and more important deductions may, however, be drawn from the presence of severe injuries on the genitals, *i. e.* of rupture, or laceration of the vagina or perinæum. It is difficult to obtain accurate medical reports of these cases as they occur in England: but it is quite clear that the male organ may produce much physical injury whether the child does or does not resist the attempt. (Casper's "Vierteljahrschrift," April, 1863, p. 337.) Dr. Chevers, in referring to Indian experience, says that in a large proportion of rapes on children, it was very clearly proved that rather severe injuries had been inflicted on them. In the "Nizamut Adawlut Reports" (1853–5) there are several instances recorded in which the vagina was lacerated. Out of 66 trials for rape, there were 25 convictions: and in one-half of these, the females were under the age of *twelve* years. In one case of a girl, æt. 12, there was a rupture of the lower part of the vagina

to the extent of half an inch. In another, a child of six, but apparently much younger, had suffered as a result of rape, from rupture of the hymen and laceration of the perinæum and vagina. In one instance the violence proved fatal, but the medical particulars were not given. ("Med. Jur. for India," p. 468.) When it is alleged that injuries have been intentionally produced on the genitals of a child by mechanical means, with a view of extorting money in laying a false charge of rape, the medical evidence can do no more than show that a girl with such appearances about her sexual organs has suffered from some violence applied to the part, but whether by the human member, or any other physical means, it would be impossible to say. The only chance of getting at the truth in such a case is by a rigorous cross-examination of the mother and child in the absence of each other.

In January, 1858, a girl seven years old was brought into Guy's Hospital, owing to injuries resulting from a perpetration of rape by a boy under seventeen years of age. About half an hour had elapsed; she was then examined by Mr. Hicks, the house-surgeon, and he found that there was a complete destruction of the hymen with a laceration of about one-eighth of an inch extending into the perinæum. There had been profuse bleeding, as the clothes were saturated with blood. There was then no complaint of pain, and there were no scratches or marks of violence on any part of the body. There was no discharge of a purulent kind. The child was of a scrofulous habit: but she was not suffering from vaginitis, and appeared in other respects perfectly healthy. I saw the girl with Mr. Hicks about forty-eight hours after the occurrence; the bleeding had then ceased, and the extent of the lacerations was very perceptible. There was no discharge of any kind from the vagina, and no inflamed or swollen condition of the parts. The boy was examined by Mr. Hicks about an hour after the perpetration of the rape, and although he had been under strict custody, and had no opportunity of changing his clothes, there was *no blood* found about his private parts, or on his clothing. It is probable, as the boy was interrupted in the act by the screaming of the girl, that he suddenly withdrew after having caused the laceration, and that the bleeding was an after effect of oozing from the ruptured vessels. This is an important fact, because, had not the circumstances been known, the absence of blood on his person might have been construed into a strong proof of innocence. Dr. Sawyer met with a case in which a rape was committed on a girl æt. 5. There was a bruised and swollen state of the genitals: the hymen was not ruptured, and there was no laceration of parts. In spite of this a large amount of blood had been lost. This bleeding, he considers, took place from the hymen, which was in a highly congested state. The man who had perpetrated the crime was examined soon afterwards, but no appearance of blood was found on his organs: there were a few stains only on the front of his clothing. ("New Orleans Med. Gaz.," 1858, p.2 83.) A case occurred to Mr. Sells, of Guildford, in 1863, in which he found on examining the person of a girl said to have been violated, laceration of the

hymen, a clot of blood recently effused lying on the vulva, and the thighs of the child smeared with blood, quite fresh; there was also blood on the sheets of the child's bed. The next morning he examined the accused, but he could find no trace of blood upon him or on the clothing which he wore at the time of the alleged assault. In this case, as there was a failure of identity, the accused was discharged.

Sometimes, owing to the violence used, the parts are much lacerated; and inflammation, followed by sloughing or mortification, may set in and destroy life, especially in children of an unhealthy habit. Care should be taken that the symptoms of a malignant form of disease (*noma*), to which female children when in a dirty or neglected state are liable, are not mistaken for the results of criminal violence.

Some cases are reported, from which it would appear that men have narrowly escaped conviction for a crime which had really not been perpetrated. Dr. Percival, in his "Medical Ethics" (3d ed., 1849, p. 117), has related a case which has been the subject of frequent quotation and comment in reference to false charges of rape. A girl æt. 4 was admitted into the Manchester Infirmary, in February, 1791, on account of a mortification of the female organs and general depression of strength. She had been in bed with a boy fourteen years old, and it was supposed that he had taken criminal liberties with her. The mortification increased, and the child died. The boy was tried on a charge of rape at the Lancaster Assizes, but acquitted on evidence being adduced that several instances of a similar disease had appeared among girls about the same period of time, in which there was no reason to suspect injury or guilt. In one of these cases there was typhus fever with a modification of the genitals. There was no cause of death discoverable on inspection; the lumbar glands were of a dark color, but all the viscera were sound. This case, with the whole of Mr. Kinder Wood's paper on the subject, has been republished by Mr. Kesteven. ("Med. Times and Gaz.," 1859, April 23 and 30.) A case of this disease (*noma pudendi*), but in which no charge of rape was made, was referred to me in December, 1865. E. A. R., a girl æt. 5, died suddenly under circumstances which led to a suspicion that poison had been administered to her. There was congestion of the lining membrane of the stomach, but no poison was found in the body, and there was no trace of the action of poison. When the body was inspected, the genitals externally and the skin around and beyond the anus were intensely inflamed, swollen, and ulcerated, and in an approaching state of gangrene or slough. The hymen at the entrance was ruptured, and the lining membrane of the vagina and uterus was highly inflamed, of a dark purple color, with softening and disorganization of substance. The inguinal glands were enlarged on both sides. The child was in a neglected and dirty state, and died from the exhaustion produced by the disease and want of proper food and support. Deceased was seen by a medical man shortly before her death, and the state of the genitals was only discovered by accident, the mother having made

no observation about it. When questioned on the subject, she said the girl had been blown down about a fortnight before and had injured herself by falling on some thorns. This was quite inadequate to account for the condition of the parts. There was no doubt that this was a case of noma rendered fatal by neglect in an unhealthy child. Had any man been seen noticing this child, a charge of rape might easily have been founded upon the state of the genital organs.

On the other hand, fatal injury may be done to these organs in criminal assaults. Mr. Colles has reported a case in which a rape was committed by an adult on a child eight years old; it terminated fatally from peritonitis, as a result of the violence, six days after the assault. The child stated that the accused had had forcible connection with her, causing much pain and loss of blood. There were no marks of violence (bruises?) externally, but the orifice of the vagina was lacerated in its entire circumference and the perinæum was nearly torn through. It was found, on inspection, that the orifice, as well as the whole of the vagina, was in a state of gangrene, and its posterior wall had been lacerated at its line of junction with the uterus to the extent of an inch. There was no ulceration; the labia and clitoris had not undergone any change. ("Med. Times and Gaz.," June 2, 1860, p. 560.) The prisoner subsequently confessed his guilt. A case was communicated by Dr. M'Kinlay to the "Glasgow Medical Journal" (July, 1859, p. 140), which proves that extensive injuries may be produced on a child by the act of violation. The girl in this instance was about six years of age, and very intelligent. From her description of the assault, it appears that she fainted, probably owing to the severity of the pain. When examined, it was found that the vagina was ruptured in various directions. One laceration extended from the lower part downwards, dividing the recto-vaginal septum and perinæum down to the verge of the anus. There was a lacerated opening in the coats of the rectum; the orifice of the vagina was lacerated upwards as well as laterally; the parts were raw, swollen, and very tender. When the child was first seen, there was blood on the limbs and clothes; she recovered from these serious injuries in about two months. In a case of alleged rape, it was a question raised in favor of the prisoner, whether rupture of the perinæum could or could not be effected in rape on a girl. Some eminent members of the profession appear to have doubted the possibility of rupture being produced under these circumstances (see Sir W. Wilde's paper, "Dub. Med. Journal," February, 1859); but the facts here recorded show that such an opinion is erroneous.

Purulent Discharges from the Vagina. Vaginitis. Infantile Leucorrhœa.—The existence of a purulent discharge from the vagina as a result of vaginitis or inflammation of the vagina, has been frequently adduced as a sign of rape in young children. The parents, or other ignorant persons who examine the child, often look upon this disease as a positive proof of impure intercourse; and perhaps lay a charge against an innocent person, who may have been observed to take particular notice of the child. A purulent discharge with aphthous ulceration of the mucous membrane is occasionally a

result of vaginitis (inflammation of the vagina) in young children. It may arise from dentition, or local causes of irritation—as worms or uncleanly habits—and is observed especially in children of a scrofulous habit. It is frequently met with in girls up to six or seven years of age; and children thus affected have been tutored to lay imputations against innocent persons for the purpose of extorting money. This state may commonly be distinguished from the effects of violence, either by the hymen being entire, or by the non-dilatation or laceration of the vagina or perinæum; by the red and inflammatory condition of the mucous membrane; and the abundance of the purulent discharge, which is commonly much greater than that which takes place as a mere result of violence. Capuron mentions two cases in which charges of rape on children were falsely made against innocent persons, on account of the existence of a purulent discharge the nature of which had been mistaken. ("Méd. Lég. des Accouchemens," p. 41.) Sir Charles Locock observes that the purulent discharges of female children are attended with redness and swelling of the sexual organs, and are sometimes accompanied with excoriation and sloughing of the skin, owing to the irritating nature of the matter. They are so connected with dentition, that they not only appear with the first and second set of teeth, but even when the wisdom-teeth are irritating the system at a mature age. Mr. South, commenting on this statement ("Chelius's Surgery," vol. 1, p. 161), justly remarks that a knowledge of these facts "is highly necessary, and is very properly insisted on, as there is no doubt that many men have suffered capital punishment from the ignorance of practitioners on this point; and even now, with our better knowledge, it is by no means unfrequent to hear of medical men giving a decided opinion which is almost certainly erroneous upon the gonorrhœal character of pudendal discharges, and thus jeopardizing the character if not the life of an innocent man. In giving his opinion or evidence in such cases, a practitioner is bound to speak with extreme caution, and only on the most incontestable proof (which by a mere examination of parts it is almost impossible for him to attain), before he makes a positive statement as to the gonorrhœal character of a discharge." Although the facts are or ought to be well known to medical men, there is still much popular ignorance in reference to this disease, and false charges of rape on children are now not unfrequently made. Mr. Kesteven met with a case in which a discharge from the vagina of a child nine years of age was considered by the parents to indicate that intercourse had been had with her. There was no mark of contusion or violence on or about the pudendum or in the vagina, and the case was very properly pronounced to be one of vaginitis. ("Med. Gaz.," vol. 47, p. 372.) A similar case was referred to me in which a soldier was supposed to have infected a child; but an investigation showed that it was a purulent discharge depending on inflammation of the vagina.

A gonorrhœal discharge is generally very profuse—much more profuse than that purulent discharge which is simply the result of such violence as is produced in the commission of rape. There is

another fact worthy of notice, namely, that the last-mentioned discharge, besides being less profuse, lasts for a much shorter time. Casper has recommended that in doubtful cases another examination of the sexual organs should be made in ten or twelve days. If the purulent discharge has then ceased, or is ceasing, there is good reason to believe that it was not the result of gonorrhœa, but of some temporary cause of inflammation in the mucous membrane. ("Klinische Novellen," 1863, p. 10.) Of false charges of rape arising from mistakes on the subject, he furnishes various instances (p. 19).

Assuming that the surgeon is satisfied, from a careful examination, that the purulent discharge must have existed before the alleged assault, and that it is of the ordinary inflammatory character with which young girls are liable to be attacked, this would not justify him in affirming that no rape had been attempted or perpetrated on the child. Girls laboring under this disease may be the subjects of rape, and it will then be necessary to seek for further evidence on the condition of the hymen, the lining membrane of the vagina, and the vulva. If nothing is found beyond what is consistent with disease, there is an absence of medical evidence to prove that any rape has been committed. An aphthous state of the membrane of the vagina must not, under these circumstances, be ascribed to injury caused by mechanical violence. (Casper's "Gerichtliche Medicin," vol. 2, p. 148.)

Infantile leucorrhœa has been fully investigated by Sir W. Wilde, of Dublin. ("Medico-legal Observations," &c., 1853.) This gentleman has collected numerous instances illustrating in a remarkable manner the great danger to which innocent persons are exposed by reason of false charges of rape on children. Two of these are especially noticed in his essay. A charge was raised against a respectable man, that he had had intercourse with, and produced disease in, two children. The day and hour were circumstantially given, extorted as it appears from the children by the parent, and the man was put upon his trial. The appearances were such as are usual in these cases—a purulent discharge from the vagina with some excoriation, but no bruise, laceration, or mark of violence on the pudendum. There had not been any penetration of the vagina. The charge against the prisoner, although unsupported by any affirmative circumstances, received some strength from the admission made by one medical witness for the prosecution—namely, that the appearances *might* have been the result of violence, and that the discharge *might* have been produced by friction with the member of a healthy man. (Wilde, op. cit. p. 14.) It was proved that the prisoner was not affected either with gonorrhœa or syphilis. Drs. Geoghegan, Churchill, and other medical witnesses of repute, gave testimony to the effect that the child was laboring under an ordinary form of disease, and that there was no medical indication that it had been subjected to any kind of violence. This testimony was not considered by the court to furnish a complete answer to the charge, since it was inferred that the appearances on the child *might*

have been caused by the accused, without any marks of violence being left on the pudendum! So strong was this feeling that, had the case rested here, it is probable the accused would have been convicted upon the unsupported statement of the child. An alibi was, however, clearly proved, and the man was acquitted. In this instance, it will be perceived, it was alleged that a man who labored under this disease had caused a purulent discharge in a child! At the same time, it was admitted that the pudendum had sustained no violence whatever. Medically speaking, there appears to have been not the slightest pretence for charging the accused with the perpetration of rape; the appearances might or might *not* have been caused in the manner suggested. Under such loose medical evidence as this no person would be safe. An acquittal from an unfounded charge would depend upon the man who is accused being able to prove a distinct alibi, *i. e.* he must prove his innocence. The statement of the child may be simple and artlessly made. At this tender age a girl may be easily induced, by the fear of punishment, and by the aid of leading questions put by a parent, to admit that some one had committed an assault upon her. The statement once made may be persevered in, and its inconsistency may not always be brought out by cross-examination.

If the child is really laboring under *syphilis* or *gonorrhœa*, this is, cæteris paribus, evidence of impure intercourse, either with the ravisher or some other person; but we should be well assured, before giving an opinion, that the discharge is really of a gonorrhœal and not simply of a common inflammatory (purulent) character. The party accused may have been at the time free from the disease, or, if laboring under it, then we should expect to find that the discharge had suddenly made its appearance in the child, with its usual severe symptoms, at a certain interval of time after the alleged intercourse—*i. e.* from the third to the eighth day. When these conditions do not exist, it is extremely difficult to form a medical opinion on the subject; since there are no certain means, by the microscope or otherwise, of distinguishing common purulent discharges from those which are gonorrhœal or syphilitic. A case occurred to M. Biessy, in which a merely mucous discharge in a girl was pronounced to be syphilitic, and the person who was falsely accused of rape narrowly escaped conviction. (Briang, "Man. Complet. de Méd. Lég.," 1846, p. 81.) The purulent matter of gonorrhœa does not differ microscopically from that produced in other forms of disease.

We should further distinctly satisfy ourselves that gonorrhœa in a child, if it exist, could not have arisen from infection by any accident irrespective of intercourse. This limitation is rendered necessary by the publication of a report of two cases by Dr. W. B. Ryan ("Med. Gaz.," vol. 47, p. 744), in which two sisters, one of one year and the other of four years of age, received the infection by reason of their being washed in a vessel of water with a sponge used by a young woman affected with profuse gonorrhœal discharge. Dr. Ryan clearly traced the origin of the discharge to this unexpected accident. Had an accusation of rape been made against a man labor-

ing under gonorrhœa, it is not at all improbable that this condition of the children, resulting from an unsuspected accident, would have been taken as an unanswerable proof of his guilt. Cases of this kind, thus accurately observed, convey an important caution to medical witnesses: *i. e.* that they should not infer criminal intercourse merely from the existence of a gonorrhœal discharge in the absence of marks of violence to the genitals or of other strong corroborative proofs.

As a summary of these remarks with respect to purulent discharges, we may observe that they should not be admitted as furnishing corroborative evidence of rape, except—1st, when the accused party is laboring under gonorrhœal discharge; 2dly, when the date of its appearance in a child is from the third to the eighth day after the alleged intercourse; and 3dly, when it has been satisfactorily established that the child had not suffered from any such discharge previously to the assault. It may be said, however, that all these conditions may exist, and yet the accused be innocent; for a child may, either through mistake or design, accuse an innocent person. This, however, removes the case entirely from the hands of a medical jurist. (The reader will find much useful information on this subject in a paper by Dr. Penard, "Ann. d'Hyg.," 1860, vol. 2, pp. 130, 345.)

With respect to marks of violence on the *body* of a child, these are seldom met with, because no resistance is commonly made by mere children. Bruises or contusions may, however, be found occasionally on the legs.

Rape on Young Females after Puberty.

When the crime is committed on a girl from the age of ten to twelve years, the facts are much the same as those already referred to with respect to children below the age of ten years. There is, however, some difference in the legal complexion of the offence. If carnal intercourse be had with the consent of a female between the ages of ten and twelve years, the offender is guilty of a misdemeanor only (24 & 25 Vic. c. 100, s. 51); above the age of twelve years, the consent of the girl does away with any imputation of a legal offence. Girls who have passed this age are considered to be capable of offering some resistance to the perpetration of the crime; and therefore, in a true charge, we should expect to find not only marks of violence about the pudendum, but also injuries of greater or less extent upon the body and limbs. It is probable that in these cases, if the charge were well-founded, the hymen would be ruptured, as the intercourse is always presumed to be violent: but there might be some degree of penetration without this being a necessary result, especially if the membrane were small, or placed far up. At any rate, a girl at this age may sustain all the injury, morally and physically, which the perpetration of the crime can possibly bring down upon her, whatever may have been the degree of penetration; and for this reason, it is very properly laid down by our law, that the crime consists in the mere proof of penetration. The fact, however, is generally clearly made out by the statement of a girl. Girls of tender age are

sometimes violated by boys; the amount of physical injury inflicted in such cases is less than when the assailant is an adult.

With respect to *marks of violence* on the person, the exact form, position, and extent of these should be noticed, also their appearance whether recent or of old-standing. A false accusation of rape may be sometimes detected by the violence being in a situation in which it was not probable that the ravisher would have produced it. When bruises are found, the presence or absence of the usual zones of color may occasionally throw light upon the time at which the alleged assault was committed. As these marks of violence on the person are not likely to have been produced with the concurrence of the girl, they are considered to furnish some proof of the intercourse having been against her will. But the physical appearances of rape about the genital organs may be found, whether the connection has been voluntary or involuntary. Thus rupture of the hymen, laceration of the vagina with effusion of coagula of blood, swelling and inflammation of the vulva, and stains of blood upon the person, dress, or furniture, may be met with in both cases. In making an examination, the greatest care should be taken by the practitioner to fix, at the time of examination, a probable date for the marks of injury to the genitals or other parts of the body, as it is by the aid of such observations that the truth or falsity of a charge may be sometimes clearly established.

Girls and unmarried young women are liable to *muco-purulent discharges* from the vagina, as a result of which the hymen may be destroyed. This kind of discharge arises from inflammation of the vagina (vaginitis), and it has been observed to follow an attack of scarlatina. When it exists, its real cause requires the closest scrutiny. At a more advanced age, young women are frequently subject to leucorrhœa. These cases are not likely to be mistaken for gonorrhœa; as here the female has it in her power to give some account of the circumstances, from which a medical opinion may be easily formed. It is possible, however, that a woman laboring under leucorrhœa may charge a man with the crime of rape, and affirm that this discharge had arisen from the act of the man. An inflamed and partially ulcerated (aphthous) state of the lining membrane of the vulva may apparently give support to the accusation. The discharge in leucorrhœa is of a mucous nature—that of gonorrhœa is of a purulent character—but purulent discharges may take place from the vagina as the result of intense inflammation, and quite irrespective of impure intercourse. ("Chelius's Surgery," by South, vol. 1, p. 160.) It would be impossible to distinguish such discharges from those of gonorrhœa; while a leucorrhœal discharge under great inflammatory action may also resemble that of gonorrhœa.

Defloration. Signs of Virginity.—It will be necessary to say a few words respecting the *signs of virginity*—a subject upon which, in some medico-legal works, a great amount of poetical discussion appears to me to have been wasted. Independently of cases of rape, this question may occasionally assume a practical bearing in relation to the signs of defloration. In civil cases a medical witness may be

asked whether a woman has ever had intercourse or not; and proof of the fact may be necessary in order to confirm or rebut statements made by her in evidence. The question may be not whether a female has had a child, for this would resolve itself into a proof whether delivery had or had not taken place—it may be limited to the probability or possibility of intercourse on her part at some antecedent period. Now, a medical jurist, when consulted in such a case, can be guided only by the presence or absence of the external signs of virginity. The hymen may be intact, but this does not prove non-intercourse, because females have been known to conceive with the hymen uninjured; and an operation for a division of this membrane has been actually rendered necessary before delivery could take place. (Henke's "Zeitschrift der S. A.," 1843, vol. ii. p. 149.) Two cases of impregnation without rupture of the hymen are reported in the "New Orleans Medical Gazette" for June, 1858 (pp. 217, 220). The hymen in each case required to be divided to allow of the delivery of the child. Another case is reported in the "American Jour. Med. Sciences" for April, 1859 (p. 576). These facts may be explained by the membrane being hard and resisting and at the same time small in extent, *i. e.*, only partially closing the vagina. Under opposite conditions, the persistence of this membrane might fairly lead to the inference that the female was chaste, and that there had been no intercourse; but the hymen may be destroyed by ulceration, as a result of inflammation of the genital organs. When the membrane has been thus destroyed by disease or other causes, or when it is congenitally absent, a medical opinion must be more or less conjectural; for one intercourse could hardly so affect the capacity of the vagina, as to render the fact evident through life, and there is no other datum upon which an opinion could be based. The presence of the hymen is of course quite incompatible with the assumption that the female has borne a child. A question of this kind incidentally arose in *Frazer* v. *Bagley* (Common Pleas, Feb. 1844). It was alleged by defendant that the plaintiff, a married man, had had adulterous intercourse with a young woman, and that at an antecedent period she had left her home for the purpose of giving birth to a child privately. The late Dr. Ashwell was called upon to examine the woman, and he deposed that, in his opinion, she was a virgin, and had never had a child. In spite of this evidence, the jury returned a verdict for the defendant. It is possible, however, that abortion may take place at the early periods of pregnancy, without the necessary destruction of the hymen. (See Henke, "Zeitschrift," 1844, vol. i. p. 259.)

The question is of importance not only as it may affect the reputation of a woman, but the credibility and character of the person who makes the imputation of a want of chastity. In 1845, a gentleman, then assistant-surgeon in the Bombay Army, was brought to a court-martial on a charge of having deliberately and falsely asserted that on several occasions he had had connection with a native woman. This was denied by the woman, and evidence was adduced to show that she had still what is commonly regarded as

the main sign of virginity, namely, an unruptured hymen. In consequence of this the medical officer was found guilty and cashiered. The woman was at the time about to be married, and this rendered the investigation all the more important to her. An assistant-surgeon, who examined the girl, deposed that he found the membrane of a semilunar form, and tensely drawn across the vagina; and his evidence was corroborated by that of a midwife. The inculpated person took up a double line of defence—1st, that the examination of the woman was incomplete; and 2dly, that the hymen, if present, would not justify the witnesses in saying that intercourse could not possibly have taken place. On the first point, it is unnecessary here to make a remark; but it appeared from their own admissions, that the witnesses had never before examined women with this particular object. Assuming that there was no mistake, it becomes a question whether non-intercourse could in such a case be inferred from the presence of the membrane. Fruitful intercourse, it is well known, may take place without rupture of the hymen. Some instances of this kind were referred to at the court-martial: but such cases may be regarded as of an exceptional nature. The real question is, whether, unless the hymen be in an abnormal state, intercourse can possibly occur between young and active persons without a rupture of this membrane. Intercourse is not likely to be confined, under these circumstances, to a mere penetration of the vulva. The membrane in this woman is stated to have been intensely drawn across the canal, and it was not tough; it was therefore in a condition to render it most easy for rupture. In the case of an old man, or one of weak virile power, vulval intercourse might be had without destroying the membrane; but such a case could only be decided by the special circumstances which accompanied it. The presence of an unruptured hymen affords a presumptive but not an absolute proof that the woman is a virgin; and if of the ordinary size and shape, and in the ordinary situation, it shows clearly that, although attempts at intercourse may have been made, there can have been no vaginal penetration. Admitting the statements of the examiners to have been correct, it is improbable that this woman had had sexual intercourse several times, or even on one occasion; hence the imputation on her chastity was unfounded.

In the case of *Delafosse* v. *Fortescue* (Exeter Lent Ass. 1853), which involved an action for defamation of character, the plaintiff, a married man, æt. 64, had been charged with committing adultery with a certain woman. Several witnesses for the defendant positively swore that they had seen these persons in carnal intercourse. This was denied by the plaintiff; and, as an answer to the case, medical evidence was tendered to the effect that the woman with whom the adulterous intercourse was alleged to have taken place had been examined, and the hymen was found intact. In cross-examination this was admitted not to be a conclusive criterion of virginity. A verdict was returned for the defendant. The form and situation of the hymen in this case were not described; but it is to be presumed that these were not such as to constitute a physical bar to inter-

course, or this would have been stated by the medical witness. Hence the existence of the membrane was not considered to disprove the allegations of eye-witnesses. A somewhat similar case (*Howes* v. *Barber*) was tried in the Common Pleas in June, 1865. Defendant alleged that he had seen plaintiff, as he believed, in intercourse with an unmarried lady. This was denied by the plaintiff and the lady, and to support this denial, medical evidence was called to show that there had been no intercourse. Drs. Oldham and Barnes examined the lady, and deposed that the hymen was entire, and that she was *virgo intacta*. In Scotland this kind of medical evidence is not admissible. I am indebted to Mr. Trayner, a member of the Scotch Bar, for the subjoined case, in which a wife sued the husband for divorce, on the ground, inter alia, that he had committed adultery with C. In defence, the defendant denied the adultery, and adduced C. as a witness, who swore that such connection had never taken place. She also swore that she had submitted to an *inspectio corporis* by Sir I. Simpson. The defendant then proposed to examine this gentleman, that he might speak to the result of his examination. He argued that this was the best evidence that he could adduce in support of his innocence, as if the girl was still a virgin, the adultery alleged could not have been committed. The court refused to admit the evidence, on the ground that it was merely in the form of an opinion from the learned professor; that other medical men might differ from him, even from the same observations; and that, as the court could not compel C. to submit to another examination, the proposed evidence must be considered *ex parte* and inadmissible. (Session Cases, Edinburgh, Feb. 11, 1860.) In *Hunt* v. *Hunt* a verdict was obtained at common law against the alleged paramour in a case of adultery, and the damages were assessed at 50*l*. It was subsequently proved that the lady was *virgo intacta!* So long as there are facts which show that women have actually conceived with the hymen still in its normal state, it is inconsistent to apply the term "virgo intacta" to women merely because this membrane is entire. A woman may assuredly have an unruptured hymen, and yet not be a virgo intacta. This can only be decided by the special circumstances proved in each case. Such *virgines intactæ* have frequently required the assistance of accoucheurs, and in due time have been delivered of children!

CHAPTER LVII.

RAPE ON MARRIED AND ADULT WOMEN.—CIRCUMSTANCES UNDER WHICH IT MAY BE PERPETRATED ON ADULT WOMEN.—LOSS OF PHYSICAL EVIDENCE.—PREGNANCY FOLLOWING RAPE.—MICROSCOPICAL EVIDENCE.—SODOMY.

On Married and Adult Women.—The remarks already made apply generally to married women, with this difference—that when a woman has already been in habits of sexual intercourse, there is commonly much less injury done to the genital organs. The hymen will, in these cases, be found destroyed and the vulva dilated. Still, as the intercourse is presumed to be against the consent of the woman, it is most likely that when there has been a proper resistance some injury will be apparent on the pudendum; and there will be also, probably, extensive marks of violence on the body and limbs. Such cases are generally determined without medical evidence, by the deposition of the woman, corroborated, as it should always be, by circumstances. An experienced barrister has suggested to me that this statement regarding the presence of *marks of violence* on the pudendum of a married woman, on whom a rape is alleged to have been committed, requires some qualification. He informed me that he was engaged in the prosecution of two cases of rape on married women, in which the crime was completed in spite of the resistance of the women, and there were no marks of violence on the genital organs in either case. (*Reg.* v. *Owen* and *others*, Oxford Circuit, 1839.) This may happen when the assailant is aided by accomplices.

On the other hand, the vagina alone may be the seat of violence, and no marks to indicate a struggle or the application of force be found on the body. I was consulted in April, 1862, on a case of this description. A woman was knocked down, her clothes were pulled over her face, and the crime of rape was perpetrated by the assailant. In the position in which she was held, with her arms and hands covered over, she was half suffocated and unable to offer any effectual resistance. She was examined on the evening of the day of the assault, by Dr. Mayne. He found no marks of violence on her body, but the mucous membrane of the vagina at its commencement was contused and some portions lacerated: blood was oozing from these parts. It was properly considered that, under these circumstances, the statement of the woman was consistent with the fact that there were no marks of violence on her body. There was no reason to suppose that the injury to the vagina had been caused in any other way than by a criminal assault.

When a charge of rape is made by a prostitute, it is justly re-

ceived with suspicion, and the case is narrowly scrutinized. Something more than medical evidence would be required to establish a charge under these circumstances. The question turns here, as in all cases of rape upon adult women, on the fact of *consent* having been previously given or not. This is the point at which the greater number of these cases of alleged rape break down; and it need hardly be observed that this question has no relation to the duties of a medical witness: all that he can do is to establish, occasionally, whether or not sexual intercourse has been had with or without some violence. It is obvious that there may be marks of violence about the pudendum, or on the person, and yet the conduct of the woman may have been such as to imply consent on her part: we must not suppose that medical proof of intercourse is tantamount to legal proof of rape.

[While it is no defence that a woman was a common strumpet, or even that she was the defendant's mistress, the question of prior chastity is always a material one to be considered by the medical examiner, since unchastity can be shown by the defendant, not as an excuse or justification, but as a fact throwing much light on the subject. (Wharton & Stillé, p. 466.)

In England, and in many of the States of the United States, general evidence of reputation may be shown, but not particular acts of unchastity. *Ib. McCombs* v. *State*, 8 Ohio (N. S.) 643; *People* v. *Jackson*, 3 Parker, C. R. (N. Y.) 391.

It has been held, however, that it is competent to inquire of the prosecutrix, on cross-examination, as to particular acts before and after, at specified times and places, with specified men. *State* v. *Johnson*, 2 Wms. (Vermont) 512. In California, where the prosecutrix was the only witness, it was held that evidence that she had committed acts of lewdness with other men is admissible, and that it is immaterial by whom these acts are proved, and that the prosecutrix need not be questioned about them. *People* v. *Benson*, 6 Cal. 221.

"The *object* of such testimony is twofold: 1st, in making the fact of *coercion* less likely; and, 2d, in diminishing the witness' weight as respects credibility generally. It is less likely that a strumpet, or one holding herself out as submitting to illicit intercourse, though on special inducements or occasions alone, would resist to the extremity which a prosecution for rape requires, than would a chaste woman. And although, under ordinary circumstances, it is inadmissible to impeach *veracity* by attacking *chastity*, yet, in such an issue as the present, this seems but proper.[1] Such being the case, it will be seen that medical testimony as to the prosecutrix's prior condition is of peculiar value. Evidence of any prior venereal complaints, or of any other facts tending to prove previous illicit

[[1] Want of chastity was formerly a ground of excommunication, and as such a cause of disqualification as a witness: upon which Mr. Capel Loft (Law of Evidence, 261) comments as follows: "As if being unguardedly awake to the impressions of nature, demonstrated an insensibility to the voice of truth"!—P.]

intercourse, it is always proper under such circumstances to receive." (Wharton & Stillé, p. 467.)—P.]

Possibility of Perpetrating Rape on Adult Women.—Some medical jurists have argued that a rape cannot be perpetrated on an adult woman of good health and vigor; and they have treated all accusations made under these circumstances as false. Whether, on any criminal charge, a rape has been committed or not, is of course a question of fact for a jury and not for a medical witness. The fact of the crime having been actually perpetrated, can be determined only from the evidence of the prosecutrix and of other witnesses; still a medical man may be able to point out to the court circumstances which might otherwise escape notice. Setting aside the cases of infants, idiots, lunatics, and weak and delicate or aged women, it does not appear probable that intercourse could be accomplished against the consent of a healthy adult, except under the following conditions:—

1. When narcotics or intoxicating liquids have been administered to her, either by the prisoner or through his collusion. It matters not, in a case of this kind, whether the narcotics have been given merely for the purpose of exciting the female, or with the deliberate intention of having intercourse with her while she was intoxicated —the prisoner is equally guilty. (See *Reg.* v. *Camplin*, "Law Times," June 28, 1845; also "Med. Gaz.," vol. 36, p. 443.) The nature of the substance whereby insensibility is produced is of course unimportant. Thus the vapors of ether and chloroform have been criminally used in attempts at rape. In a case which occurred in France, a dentist was convicted of a rape upon a woman, to whom he had administered the vapor of ether. The prosecutrix was not perfectly unconscious, but she was rendered wholly unable to offer any resistance. ("Med. Gaz.," vol. 40, p. 865.) A dentist was recently convicted of rape under somewhat similar circumstances in the United States, but it was thought that the woman had made the charge under some hallucination or delusion. [The American case here referred to is that of Beale, the dentist, convicted on extremely vague and inconsistent, and entirely uncorroborated evidence of the complainant, of violating a young lady while she was stupefied and disabled by the inhalation of ether. This case was generally believed to be one of anæsthetic illusion, similar to many which have since been clearly testified to as having occurred in the experience of different operators. See the "Philada. Med. Exam.," Dec. 1854, for a full review of the case; also Wharton and Stillé, "Med. Jurisp.," §§ 443, 445, 459. See also the same authors for a report of the case of Dr. Davis Green, of Mercer Co., Ohio, convicted of rape on a young girl while partially affected by chloroform administered to her while asleep.—H.] In *Reg.* v. *Suarey* (Winchester Lent Assizes, 1859), there was a clear attempt at fraud. The prosecutrix asserted that she was *instantly* rendered insensible by the prisoner forcibly applying a handkerchief to her face, and she accused him of having committed a rape on her. The charge was disproved

by a distinct alibi, as well as by the improbability of all the circumstances.

When the state of unconsciousness arises from natural infirmity, as in idiocy or insanity, carnal intercourse with a woman is regarded as rape. (*Reg.* v. *Ryan*, Cent. Crim. Court, September, 1846.) The woman was in this case an idiot, and it was proved that her habits were not loose or indecent. Platt, B. held that if she was in a state of unconsciousness at the time the connection took place, whether it was produced by any act of the prisoner or by any act of her own(?), any one having intercourse with her, would be guilty of rape. The prisoner was convicted. [See also the case of *State* v. *Crow* (Common Pleas of Athens Co., Ohio) "Western Law Journal," vol. x. p. 501.—P.] In *Reg.* v. *White* (Northampton Winter Assizes, 1856), the learned judge, in charging the jury, stated that some doubts were entertained whether the crime of rape could be committed (in law) on the person of a woman who had rendered herself perfectly insensible by drink, so as to be unable to make any resistance: he thought it could not be alleged as an excuse for the man The question was not reserved, as the prisoner was acquitted of rape, and found guilty of an indecent assault.

It may be a question whether a man can have intercourse with a woman without her knowledge while thus in a state of *unconsciousness from natural sleep.* Casper met with a solitary case in which a girl aged 16 accused a man of having had intercourse with her while she was sleeping in her bed, of which she was not conscious until he was in the act of withdrawing from her. On her own statement she was *virgo intacta* up to the date of this occurrence. Upon the facts of the case, Casper came to the conclusion that, if her statement was true, the man could not have had intercourse with her without causing pain and rousing her to a consciousness of her position. The hymen was not destroyed, but presented lacerations in two places. This and other facts showed that there had been intercourse, but did not prove that this had taken place without the consciousness of the woman. ("Klinische Novellen," 1863, p. 31.) A man was charged with rape before a police magistrate, and the prosecutrix swore that he had effected his purpose during her sleep. The bare possibility of the offence being perpetrated under these circumstances cannot be denied; but this admission could only apply to a case in which the woman had been accustomed to sexual intercourse, and in which the sleep was preternatural or lethargic. In this instance the woman was a prostitute, and the charge improbable. A respectable married woman who had had children, the wife of an innkeeper, threw herself on her bed with her clothes on, late one evening, and fell fast asleep. She was first awakened by finding a man upon her body, in the act of withdrawing from her. This man, *William McEwan*, a servant in the house, was given into custody on a charge of rape. In the first instance he did not deny the act, and there was no reason to believe that the prosecutrix was aware of the prisoner's conduct until the crime was completed, and she was awakened in the manner described—apparently by the weight of

the prisoner's body. The prisoner was convicted and sentenced to ten years' penal servitude. ("Edin. Month. Jour." December, 1862, p. 570.) A case which may serve to throw a little light upon this question occurred to Casper. ("Gerichtliche Medicin," vol. 2, p. 574.) A married woman alleged that a man had had intercourse with her while in bed, and when she was asleep. In her deposition, however, she admitted she was conscious that some one was lying upon her, and that she asked who it was; showing, as Casper remarks, that she had a knowledge of what was going on, and some *doubt* whether the person was her husband.

In reference to the question whether it is possible to commit a rape upon a woman while asleep, a majority of the Scotch judges decided, in the case of *Sweenie* (Irvine's "Judiciary Reports," vol. 3, p. 109), that the feloniously having connection with a woman while asleep was not indictable under the name of rape, inasmuch as, apart from the force implied in the act of connection, there was no force used to overcome the will of the woman. But they held, however improbable it might be, it was quite possible that a man might have connection with a woman while asleep. ("Edin. Month. Jour.," December, 1862, p. 570.)

[We are indebted, for a case in point, to our friend Dr. D. F. Lewis, formerly of London, and now librarian to the Pennsylvania Hospital of Philadelphia. While practising in London, in 1853, he was called to attend a young woman previously well known to him as of excellent character, and found her in a violent hysterical paroxysm, brought on by the discovery that she had been violated, during sleep, by her accepted admirer. She had returned to her mother's home with him, from a long walk, very much fatigued, and after having drank a glass of ale, had sunk into a profound slumber, during which the act had been perpetrated without the slightest evidence of consciousness on her part. This was admitted by her companion; and her prompt discovery of her wrong, and immediate alarm and agitation, as well as her known liability to unusually heavy sleep, fully established the truth of her assertion. The usual physical signs of recent defloration were presented on her person.—H.]

The condition of the so-called *magnetic* or unnatural sleep has given rise to a question connected with the alleged perpetration of rape. A girl (aged 18) consulted a therapeutic magnetizer as to her health. She visited him daily for some days. Four-and-a-half months afterwards she discovered that she was pregnant, and made a complaint to the authorities against the magnetizer. They directed a physician and surgeon to determine the date of her pregnancy, and whether complainant might have then been violated and rendered pregnant contrary to her will, *i. e.*, whether her volition could have been completely or partially annihilated by magnetism. The medical inspectors were satisfied that the pregnancy did not extend further back than four-and-a-half months; and founding their opinion on M. Husson's report, made to the Academy in 1831, concluded that as a person in magnetic sleep is insensible to every kind of torture, sexual intercourse might then take place with a young woman with-

out the participation of her will; without consciousness of the act, and consequently without the power to resist the act consummated on her. This opinion was confirmed by that of Devergie. ("Gazette Médicale de Paris," and "Edin. Month. Jour." December, 1860, p. 566.) There is another view of this case which does not seem to have occurred to the French medical experts, namely: "Non omnes dormiunt quæ clausos habent oculos." [Where the testimony was to the effect that the person alleged to be ravished was awakened by the act of the prisoner, to which she made no resistance or outcry, when there was another person in the room who could have heard her, it was held not to be a case of rape. *Pollard* v. *The State*, 2 Clarke (Iowa), 567.—P.]

2. A rape may be committed on an adult woman if she falls into a state of syncope, or is rendered powerless by terror and exhaustion from long struggling with her assailant. An eminent judicial authority has suggested to me that, in his opinion, too great distrust is commonly shown in reference to the amount of resistance offered by women of undoubted character. Inability to resist from terror, or from an overpowering feeling of helplessness, as well as horror at her situation, may lead a woman to succumb to the force of a ravisher, without offering that degree of resistance which is generally expected from a woman so situated. As a result of long experience, he thinks that injustice is often done to respectable women by the doctrine that resistance was not continued long enough.

3. When several are combined against the female, in which case we may expect to find some marks of violence on her person, if not on the genital organs.

4. A woman may yield to a ravisher, under threats of death or duress; in this case her consent does not excuse the crime, but this is rather a legal than a medical question. An aged woman can scarcely be expected to resist a strong man. Dr. Chevers mentions a case in which a man was convicted of rape and aggravated assault on a woman of *seventy* years of age.

[Wharton (Wh. and Stillé, "Med. Jur." p. 351, *et seq.*) states the points to which medical testimony is most likely to be invited, in prosecutions for rape, to be the following: "First, submission of prosecutrix; (1), from artificial stupefaction; (2), from ignorance of the nature of the act; (3), from mistake of person; (4), from fear. Second, prior want of character of prosecutrix. Third, subsequent suppression of the facts by prosecutrix. Fourth, extent to which coition was carried. Fifth, want of age of defendant. Sixth, want of sexual capacity of defendant."

Under the head of "*Ignorance of the Nature of the Act*," this authority refers, among others, to the case of an imbecile girl who was totally unable to account for her pregnancy, except by the statement that her cousin had played with her on the sofa (p. 345, from "Henke's Zeits.," 1839, p. 294, Fleischmann). Also to that of a young girl who permitted sexual intercourse with a physician, solely from a belief that the defendant was, as he represented, treating her medi-

cally. This case was held by all the judges to be rape. *R.* v. *Case*, 1 "Eng. Rep." 544; "Wh. Cr. Law," (3d ed.) 519.)

From Mistake of Person.—Under this caption Wharton says (*loc. cit.*), "Very early in the judicial history of this country, a conviction of rape was sustained in New York, by a very eminent judge—Thomson, C. J.,—upon evidence showing that the prosecutrix mistook the defendant for her husband, and permitted his embraces under that impression. (1 "Wheel. C. C." 381.) The same point was again taken in subsequent cases; one in New York (*People* v. *Metcalf*, 1 "Wheel. C. C." 378), and the other in Connecticut (*State* v. *Shephard*, 7 "Conn." 54). In England it was at first thought that evidence would not sustain a conviction (*R.* v. *Jackson*, *R.* & 487), though afterwards, convictions of the assault with the intent were ordered (*R.* v. *Saunders*, 3 C. & P. 265; *R.* v. *Williams*, id., 286). The intimation, at the same time, was thrown out, that if the question arose again it would be reconsidered; and, indeed, it is difficult to reconcile an acquittal under such circumstances, with a conviction upon evidence that consent was given under the impression that the act was, as it was represented to be by the aggressor, an application in the course of medical treatment. (See "Wharton's Cr. Law," 3d ed., 512.) [In Alabama, it is held, that *force*, actual or constructive, is a necessary ingredient in the crime of rape; and that sexual intercourse with a female, with her consent, does not constitute the offence, although her consent was procured by a fraudulent personation of her husband. *Lewis* v. *The State*, 30 Alabama, 54.—P.] See "Association Medical Journal," 1855, loc. cit., for a notice of some English and Scotch cases of "fraud," in which carnal connection was had, through mistake of the complainants, with the defendants instead of their husbands. One delinquent, who was tried in Scotland, was found guilty of the special offence, and sentenced to twenty years' transportation. This course, which is the most rational, seems to be the one which the English courts are inclined to take.—H.]

Loss of Physical Evidence.—It is necessary to observe, in relation to the examination of married women, that the indications of rape on the genitals, however well-marked they may be in the first instance, either soon disappear or become obscure, especially in those who have been already habituated to sexual intercourse. After two, three, or four days, unless there has been an unusual degree of violence, no traces of the crime may be found about the genital organs. In the case of an adult married woman examined by Dr. Mayne, the appearances of injury which he discovered in and about the vagina had begun to heal in less than forty-eight hours; but in a case examined by Casper, on the ninth day the lining-membrane of the vagina was still reddened, and the parts were painful. In this case the hymen was completely torn through. ("Gerichtliche Medicin," vol. 2, p. 157.) In married women, or in those accustomed to sexual intercourse, no inference can be drawn from a dilated state of the vagina. In unmarried women, and in children when there has been much violence, these marks may persist and be apparent for a week

or longer. If there has been great laceration of the sexual organs, then certain appearances in the form of cicatrices may remain; but in all cases great caution should be observed in giving an opinion of rape having been perpetrated, from an examination even two or three weeks after the alleged commission of the offence. Marks of violence on the person can never establish a rape; they merely indicate, cæteris paribus, that the crime may have been attempted.

Pregnancy Following Rape.—It has been a question, whether when intercourse has taken place against the will of a woman, *i. e.*, in the perpetration of rape by violence, pregnancy could possibly follow. It was, at one time, thought that the will of a woman was always necessary to the act of impregnation, and therefore if she became pregnant, she must have consented to the act, and that the charge of rape was unfounded. Such a defence would not be admitted as an answer to a charge of rape, or to show, under any circumstances, that intercourse had been had with consent. Conception, it is well known, does not depend on the consciousness or volition of a female. If the state of the uterine organs be in a condition favorable to impregnation, this may take place as readily as if the intercourse was voluntary; even penetration to the vagina is not absolutely necessary for impregnation. (See case by Dr. Oldham, "Med. Gaz." vol. 44, p. 48.) In a case communicated to me by the late Mr. Carrington, a woman became pregnant, after a rape committed on her by a man who subsequently married her; the date of intercourse was accurately fixed, and a child was born after 263 days' gestation.

It has been supposed, that in cases of pregnancy following rape, in spite of resistance at first, a woman may in the end have voluntarily joined in the act. I know of no ground for adopting this theory; the general opinion is, that conception may occur, and is neither accelerated nor prevented by the volition of the sexes. Many women in married life who anxiously wish for children have none, and vice versâ; and physical impediments do not suffice in all cases to explain these facts. Women are reported to have conceived during the states of asphyxia, intoxication, and narcotism. Dr. Ryan mentions a case in which a young woman became unconsciously pregnant from intercourse had with her by a man while she was in a state of intoxication, and in which it was clearly impossible that her volition could have taken any share. ("Med. Juris." p. 245.) In married life there is no doubt that women frequently become pregnant against their will, and in a great number of cases without any consciousness of their condition until pregnancy is far advanced. Those who affirm that without the active will of the woman there can be no conception, must deny the existence of cases of impregnation in a state of unconsciousness (p. 426;) but the facts are too strong and too numerous to be met with a single denial. A medical jurist, therefore, who relied upon pregnancy following alleged rape, as a proof of *consent* on the part of the woman, and who would infer from this result that the intercourse must have been voluntary on her part, would inflict great injustice by such an opinion. The ex-

trusion of an ovum does not depend on the will of a woman, but is a periodical condition; the action of the spermatozoa on this ovum is as much removed from the will of the woman as it is from that of the man.

This subject would have hardly required so much notice, but for the fact that in some recent trials it has been put forward with a view to discredit the evidence of a woman, where pregnancy has followed intercourse in a state of alleged unconsciousness. Any statement of this kind certainly requires a close examination, because, generally, there is a strong motive for falsehood on the part of a woman. In the case of *Bromwich* v. *Waters* (p. 549), the young woman Whalley had had a child, but stated that she had not been conscious of any intercourse. The fact that she had borne a child did not prove that her statement was false, although a suggestion to this effect was made. We may fairly doubt whether a woman could have intercourse unconsciously, but because impregnation follows, this is no proof that she is guilty of falsehood or perjury.

Microscopical Evidence.—As part of the medical evidence in cases of rape, it may be necessary to examine *spots or stains* on the linen of the prosecutrix and the accused. Cases of rape are, however, commonly tried in this country without reference to this species of evidence; and it is not easy to perceive how this can be necessary to the proof of the crime in the living, when the present law of England demands only proof of penetration, and not of *emission*. (24 and 25 Vict. c. 100, s. 63.) Thus, a rape may be legally completed without reference to emission; and, medically speaking, it appears quite possible that there might be marks of emission without any penetration. Admitting that certain stains of this description are found on the clothes of an accused person,—Are these to be taken as furnishing undeniable proof of the legal completion of rape? It appears to me that without corroborative evidence from the state of the female organs they cannot be so taken; and therefore the affirmative evidence from the microscope, under these circumstances, is as liable to lead to error as that which is purely negative. The fact that spermatic stains are found on the linen of the prosecutrix may, however, become occasionally of importance in charges of assault with intent. (*Reg.* v. *Hamilton*), Edinburgh, Nov. 27, 1843.

Examination of Stains.—There are no chemical tests on which we can safely rely for the detection of spermatic stains. The appearance produced by a dried spermatic stain on linen or cotton is like that produced by a diluted solution of albumen. The fibre of the stuff is stiffened, and the stain, particularly at the margin, has a slightly translucent appearance, as if the stuff had been wetted by diluted gum or albumen, but without any shining lustre. In the dry state the stain presents no well-marked color or odor. Slips of the stained linen, when soaked in a small quantity of distilled water, yield a muco-albuminous liquid slightly alkaline. It was long since noticed by Orfila that this liquid, unlike a solution of albumen, was rendered rather strongly yellow by diluted nitric acid. By the action of warm

water, the stained linen, even although it may have been kept dry for a considerable period, has been observed to evolve the peculiar faint odor of the spermatic secretion.

The stained linen, or a portion of it, should be cut out, taking care that it is not roughly handled. It should be in a small porcelain capsule, with a sufficiency of cold distilled water (eight or ten drops) to soak it thoroughly, and to allow the fibre of the stuff to become quite penetrated by the liquid. Unless the stained stuff is very coarse, or is not easily penetrable by water, the necessary digestion will be completed in a quarter of an hour. The stained linen may then be removed, and any water loosely adhering to it allowed to drain from it. The soaked portion of the stain should then be squeezed, so that some drops of the liquid may be collected on several glass slides, already well cleaned and prepared for the purpose. The liquid thus obtained by squeezing the stained linen is slightly opaline. It should now be covered with thin microscopic glass, and examined by a microscope. The spermatozoa are best seen in a good light, with a power of 500 diameters; the head is ovoid and flattened—sometimes rather pointed; the tail is from nine to twelve times the length of the head: they are usually associated with granular bodies, and with epithelial scales. Fibres of cotton, linen, or wool may be also mixed with them: and they may be mixed with pus, mucus, and blood-globules. Their form is so peculiar that, when once well seen and examined, they cannot be confounded with, any other substance, vegetable or animal, nor with ordinary care, can any vegetable fibres be mistaken for them, although these may be mistaken for their tails, or filaments. Hence the microscopical evidence is not satisfactory unless it is based on the detection of at least one perfect spermatozoa. Dr. Koblanek expresses the opinion that when they are not discovered by the process above described, the stains cannot be due to the spermatic secretion: in this, however, he is in error. When the stained article of dress is of very coarse texture, when it has been much rubbed, much worn, or wetted by urine, blood, mucus, or pus, it will be a matter of considerable difficulty to discover these bodies, although there may really have been spermatic stains upon it. Most of these foreign substances, however, may be removed by the addition of one or two drops of diluted acetic acid, which exerts no dissolving action on the bodies of the spermatozoa. As it has been elsewhere stated, these bodies, although peculiar to the seminal fluid, are not found in the very young, the very old, or in those who are laboring under long-standing disease of the testicles (p. 580). Even in the cases of healthy married men, who have had children, spermatozoa are not always found in the spermatic secretion; their presence, size, and number are subject to great uncertainty. Exhaustion from frequent intercourse, or constitutional causes without actual bodily disease, appear to influence their production. There are also various other conditions in which they are not found; these have been fully examined by Casper ("Gerichtliche Medicin," vol. 2, p. 141). Hence the discovery of spermatozoa in stains on articles of clothing demonstrates that they have been produced by the spermatic liquid; but

their non-discovery, under these circumstances, does not prove that the stains have not been caused by this liquid. Dr. Koblanek's conclusions on this subject are therefore not borne out by facts.

The detection of dead or motionless spermatozoa in stains may be made at long periods after emission, when the fluid has been allowed to dry. In three cases, at intervals of from one week to seven weeks after the perpetration of the crime, Casper was enabled to demonstrate the presence of spermatozoa on articles of clothing, and thus to furnish strong corroborative evidence. (Op. cit., vol. 2, p. 161.) Dr. Koblanek made experiments on this subject, in reference to different periods of time; he found these bodies distinctly, after three days, one month—three, four, six, nine, and even twelve months. The number of distinct and perfect bodies diminished according to the length of the period at which the examination was made. Thus, at the end of a year, only two perfect specimens could be perceived; but it may be stated, that the discovery of one distinct and entire body is quite sufficient to justify a medical opinion of the spermatic nature of the stain. M. Bayard states that he had been able to detect spermatozoa in stains after the long period of six years! ("Man. Prat. de Méd. Lég." p. 277.)

A medical witness must be prepared to consider the precise value of evidence furnished by the microscope in the examination of stains on the dress of a man accused of rape. A shirt may present stains of blood, urine, mucus, or gonorrhœal discharge, some of which, but for the microscope, might be mistaken for spermatic stains. Admitting that, by the process above described, the microscrope enables an examiner to affirm that the stains have really been caused by the spermatic secretion, this does not prove that a rape has been committed, or even that intercourse has been necessarily had with a woman. Such stains may arise from spontaneous natural discharge, or from disease (spermatorrhœa), and therefore in themselves they afford no proof of intercourse. If, from other circumstances in the case, it should be clearly and satisfactorily proved that there has been intercourse, then the presence of blood mixed with the spermatic stains might, in certain cases, justify an opinion that violence had been used. The discovery of spermatic stains on the dress of a woman furnishes stronger evidence of intercourse, attempted or perpetrated, than their discovery on the dress of a man; but admitting that intercourse is thus proved, it may still have taken place with the consent of the woman. These stains, when found on the clothing of girls and infants, afford a strong corroborative proof of the perpetration of the crime.

Microscopical Evidence from the Woman.—It may become necessary to determine, in reference to a woman, whether intercourse has or has not recently taken place. All observers agree that, within a certain period after connection, the fact may be established by the examination of the vaginal mucus. A small quantity of this mucus placed upon glass, and diluted with water, will be found to contain spermatozoa, if the suspicion be correct. In addition to other characters, it may be remarked that the living spermatozoa move for many

hours out of the body when kept at a temperature of 98°, and they even retain their rapid motions when the spermatic liquid is mixed with water; but these motions cease immediately on the addition of urine or chemical re-agents. According to Müller, the spermatozoa may retain vitality (or free motion) in the body of a woman for the period of seven or eight days, and even longer. M. Bayard states that he has thus detected them in the vaginal mucus of females not subject to morbid discharges, at various intervals up to three days after intercourse (op. cit., p. 277); and Donné found them under similar circumstances in a woman who had been admitted into the hospital the day before (op. cit., p. 305.) This evidence may become of value in a charge of rape, but it may be easily destroyed by the presence of leucorrhœa: and it is open to an objection, that, in certain morbid states of the vaginal mucus of the human female, there is found in it a microscopic animalcule, called by Donné the *Trichomonas vaginæ;* but this has a much larger body and a shorter tail than the spermatozoon. Other substances may be sometimes found in the vaginal mucus; see case by Dr. Lender (Horn's "Vierteljahrschrift," April, 1865, p. 355).

Marks of Blood on Clothing.—Marks of blood upon the linen can, of course, furnish no evidence unless taken with other circumstances. The linen may be intentionally spotted or stained with blood for the purpose of giving apparent support to a false accusation. Dr. Bayard met with a case of this kind, in which a woman charged a youth with having committed a rape upon her infant child. On examination, the sexual organs were found uninjured; and on inspecting the marks of blood on the clothes of the child, it was observed that the stains were produced on the *outside* of the stuff, and bore the appearance of smearing; the whole fibre had not even been completely penetrated by the liquid. The falsehood of the charge was thus established. ("Ann. d'Hyg.," 1847, vol. 2, p. 219.) A case involving a false charge of rape was tried at the Glasgow Autumn Circuit in 1859. One of the witnesses, an accomplice, proved that she had purchased some blood and handed it to the woman who made the charge, and she saw her smear it over her person and on some sheets on which it was alleged the rape was perpetrated. The woman (*Boyle*) and her husband, who made this false charge, were convicted of conspiracy.

It may be a question whether marks of blood on the linen of a prosecutrix were caused by effusion as a result of *violence* or by the *menstrual fluid.* In its normal state this fluid is said to contain no fibrin; but in respect to the presence of red corpuscles and of serum, it resembles blood. That fibrin is, however, frequently present, and in large quantity, is obvious from its being occasionally discharged in a clotted state: hence the discovery of fibrin in a stain would by no means necessarily imply that the blood was not derived from the menstrual fluid. Supposing the blood-stain to have been caused by imbibition from another article of dress already stained, the secondary stain would be free from fibrin, which would remain in the stuff originally wetted. A man might thus wrongly pro-

nounce this secondary stain to be due to menstrual blood. Even the presence of epithelial scales and mucus would not prove the stain to be menstrual, unless it could be shown that the mucus was actually effused with the blood which caused the stain. The epithelial scales naturally found in vaginal mucus are flat nucleated cells, oval, round, or polygonal in shape, and varying in size. They are spread over the mucous membrane not only of the vagina, but of the mouth, pharynx, œsophagus (gullet), conjunctiva, and the serous and synovial membranes. ("Kirkes' Physiology," p. 304.) There must be great caution in relying upon this microscopical evidence.

It may be right to state, for the information of medical practitioners who have hitherto thought that they could easily distinguish menstrual blood, and swear to it, on charges of rape, that a few years since the French Academy of Medicine appointed as a committee MM. Adelon, Moreau, and Le Canu, to examine this question in the most comprehensive manner. These gentlemen reported that, in the present state of science, there is no certain method by which menstrual blood can be distinguished from that effused from the bloodvessels in a case of child-murder or abortion. ("Ann. d'Hyg.," 1846, vol. 1, p. 181; see ante, p. 592.)

Evidence of Violation in the Dead.—The body of a child or woman is found dead, and a medical witness may be required to determine whether her person has or has not been violated before death. There is here some difficulty, because there will be no statement from the prosecutrix herself. The witness can seldom do more than express a conjectural opinion, from the discovery of marks of violence on the person and about the genital organs. Even if spermatozoa were detected in the liquid mucus of the vagina, or on the dress of a woman, this would merely prove that there had been intercourse; whether it had been violent or not, and against the will of the woman, would depend on the circumstantial evidence. In a case of murder tried in Edinburgh some years ago, the first point to determine in the dead body was, whether a rape had or had not been committed. The examination of the stains on the dress was conclusive, when taken in conjunction with the other evidence. The jury convicted the man of a rape, but acquitted him of the murder. For a case in which evidence was obtained on the examination of a dead body, see Casper's "Klinische Novellen," p. 17.

Rape by Females on Males.—So far as I can ascertain, this crime is unknown to the English law. Several cases of this kind have, however, come before the French Criminal Courts. In 1845, a female, aged eighteen, was charged with having been guilty of an act of indecency, with violence, on the person of Xavier T., a boy under the age of fifteen years. She was found guilty, and condemned to ten years' imprisonment. In another case, which occurred in 1842, a girl, aged eighteen, was charged with rape on two children—the one eleven, and the other thirteen years of age. It appeared in evidence that the accused enticed the two boys into a field, and there had forcible connection with them. This female was proved to have had a preternatural contraction of the vagina, which prevented in-

tercourse with adult males. She was found to be laboring under syphilitic disease, and the proof of her offence was completed by the disease having been communicated to the two boys. She was condemned, by the Court of Assizes of the Seine, to fifteen years' hard labor at the galleys. ("Ann. d'Hyg.," 1847, vol. 1, p. 463.) Casper describes cases of this description which have fallen under his observation. ("Handbuch der Gerichtlichen Medicin," vol. 2, p. 129; and "Klinische Novellen," 1863, p. 15.) By the Penal Code of France, it is a crime in either sex to attempt intercourse with the other, whether with or without violence, when the child is under eleven years of age. That this offence is perpetrated in England cannot be doubted. It is by no means unusual to find, in the wards of hospitals, mere boys affected with the venereal disease. In some instances this may be due to precocious puberty; but in others, it can only be ascribed to that unnatural connection of adult females with male children, which is punished as a crime in the other sex. The only accessible medical proof would consist in the transmission of gonorrhœa or syphilis from the woman to the child.

[*Rape on Slaves.*—Before the abolition of slavery in the United States, it was decided, in Mississippi, that the carnal knowledge of a slave girl, under the age of ten years, by a slave, was not rape under the laws of that State. That the common law had no application to slaves either for protection or punishment, and that the offence therefore was not punishable by that law. That statutes did not apply to slaves either for protection or punishment, unless they be expressly named; and that consequently the statute did not cover the case. *George* v. *State*, 37 Miss. (8 George), 316.—P.]

Sodomy. Bestiality.

Sodomy is defined to be the unnatural connection of a man with mankind, while the term bestiality is applied to a similar connection with an animal. The evidence required to establish this crime is the same as in rape, and therefore penetration alone is sufficient to constitute it. There are, however, two exceptions: 1st, it is not necessary to prove the offence to have been committed against the consent of the person upon whom it was perpetrated; and 2dly, both agent and patient (if consenting) are equally guilty; but the guilty associate is a competent witness. In one case (*Rex* v. *Wiseman*), a man was indicted for having committed this offence with a woman, and a majority of the judges held that this was within the statute. Unless the person is in a state of insensibility, it is not possible to conceive that this offence should be perpetrated on an adult of either sex against his or her will; the slightest resistance would suffice to prevent its perpetration. In August, 1849, a question on this point was referred to me from Kingston, Jamaica. A man was convicted, and sentenced to transportation for life, for the crime of sodomy, alleged to have been committed on the complaining party while he was asleep. The only evidence against him was the statement of the complainant. The opinion given was in con-

formity with that of Dr. J. Ferguson, who referred the case to me, namely, that the perpetration of the act during a state of natural sleep was contrary to all probability. The remarks already made in reference to rape during sleep may be applied with greater force to acts of this nature. (p. 615.) If this crime be committed on a boy under fourteen years, it is felony in the agent only; and the same, it appears, as to a girl under twelve. ("Archbold," p. 409.) The act must be in the part where it is usually committed in the victim or associate of the crime, and if done elsewhere it is not sodomy.

The facts are commonly sufficiently proved without medical evidence, except in the cases of young persons, when marks of physical violence will in general be sufficiently apparent. In some instances proof of the perpetration of the crime may be obtained by resorting to microscopical evidence. (See Donne, op. cit. p. 305.) Stains upon the linen of young persons may thus furnish evidence that the crime has been attempted, if not actually perpetrated. For a case of this kind see p. 585.

Trials for sodomy and bestiality are very frequent, and convictions of men and boys have taken place for unnatural connection with cows, mares, and other female animals. It is punishable by penal servitude for life, under the 24th & 25th Vict. c. 100, s. 61. There cannot be the slightest doubt that false charges of sodomy are more numerous than those of rape, and that this is too often a successful mode of extortion. This is rather a legal than a medical question; but it is especially deserving of notice, that these accusations are very frequently made by soldiers and a bad class of policemen!

[It is a remarkable fact, that in cases of trials for rape, the maxim of the law that innocence is to be presumed until guilt is proved, is often reversed. The most glaring inconsistencies and contradictions on the part of the prosecution seem to escape the notice, or to make no impression upon the mind of the jury. The remarks of Sir Matthew Hale, so often quoted that they have become trite, contain nevertheless a truth that cannot be controverted: "It is true," he says (1 Hal. P. C. 635) "that rape is a most detestable crime, and therefore ought severely and impartially to be punished with death; but it must be remembered that it is an accusation easy to be made, hard to be proved, but harder to be defended by the party though innocent." He then mentions some cases within his own observation of malicious prosecution for this crime, and adds: "I mention these instances that we may be the more cautious upon trials of offences of this nature, wherein the court and jury may with so much ease be imposed upon, without great care and vigilance, the heinousness of the offence many times transporting the judge and jury with so much indignation, that they are over-hastily carried on to the conviction of the persons accused thereof by the confident testimony of sometimes false and malicious witnesses."

Many cases might be cited to illustrate these remarks: the books are full of them, however, and it would be unnecessary to occupy space by doing so. The conviction of Dr. Beale, for instance, was a surprise to the legal and medical professions, and could only be accounted for by this remarkable tendency on the part of the jury. In allusion to this case, Mr. Wharton, in treating of what degree of penetration is required to complete the offence of rape, says ("Med. Juris." § 471): "Perhaps the furthest limit to which the rule has reached, is in a recent case in Philadelphia, where, though there was no medical examination, it was held that proof by the prosecutrix of pain in the sexual organ, and of the juxtaposition at the time of the defendant's face to her own—she at the time being in a dentist's chair, under the influence of ether—was enough to justify a jury in pronouncing that there was penetration, and that the penetration was sexual. The general result of both medical and legal opinion, however, is, that while the learned and able judge who tried the case, properly left it to the jury as a question of fact as he was obliged to do, to determine whether penetration had then taken place, the verdict was not sustained by the evidence, and forms an unsafe precedent for the future." And in a note to section 443 of the same work, the following remarks are added: "We sincerely believe that a great wrong may have been inflicted upon an innocent man, which can only be compensated by the probability that the fallible nature of the evidence upon which he was convicted, will hereafter render it difficult to sustain an accusation upon similar proof." In the same note is mentioned the case of a dentist in Montreal, who was indicted in 1858, for attempting to commit a rape upon one of his patients under the influence of chloroform. At the trial, a witness testified that his wife was under the strongest impression that she had been violated by the prisoner while under the influence of chloroform; yet her husband was present during the whole time she was unconscious. The verdict of the jury was, "Guilty of an attempt to commit rape, with a recommendation to mercy"![1]

In the case of *People* v. *Benson*, 6 Cal. 221, the court say that "no case of this class (rape) should go to the jury on the sole testimony of the prosecutrix, unsustained by facts and circumstances, without the court warning them of the danger of conviction on such testimony." —P.]

[1] Sancho Panza's judgment, in the case of rape which was heard before him during his brilliant, though brief, administration as governor of Barataria, was certainly more creditable to the cause of justice. The historian thus reports it: "This cause was no sooner ended, than there came into court a woman keeping fast hold of a man, clad like a rich herdsman. She came, crying aloud: 'Justice, my lord-governor, justice! If I cannot find it on earth, I will seek it in heaven! Lord-governor of my soul, this wicked man surprised me in the middle of a field, and made use of my person as if it had been a dish-clout. Woe is me! he has robbed me of what I have kept above these three-and-twenty years, defending it against Moors and Christians, natives and foreigners. Have I been as hard as a cork-tree, and preserved myself as entire as a salamander in the fire, or as wool among briers, that this honest man shall come with his clean hands to handle me?' 'That remains to be inquired into,' said Sancho: 'let us now proceed to see whether this gallant's hands are clean

or not;' and turning to the man, he asked him what he had to say in answer to this woman's complaint. The man, all in confusion, replied: 'Sir, I am a poor herdsman, and deal in swine; and this morning I went out of this town, after having sold, under correction, be it spoken, four hogs, and what between dues and exactions, the officers took from me little less than they were worth. As I was returning home, by the way I lighted upon this good dame, and the devil, the author of all mischief, yoked us together. I paid her handsomely: but she, not contented, laid hold of me, and has never let go of me until she has dragged me to this place. She says I forced her; but by the oath I have taken, or am to take, she lies. This is the whole truth.' Then the governor asked him if he had any silver money about him. The man answered that he had about twenty ducats in a leathern purse in his bosom. Sancho ordered him to produce it, and deliver it just as it was to the plaintiff. He did so trembling: the woman took the purse, and making a thousand curtsies, and praying to God for the life and health of the lord-governor, who took such care of poor orphans and maidens, out of the court she went, holding the purse with both hands, taking care first to see if the money that was in it was silver.

"She had no sooner left the room than Sancho said to the herdsman, who was in tears, and whose eyes and heart were gone after his purse: 'Honest man, follow that woman, and take away the purse from her, whether she will or not, and come back hither with it.' This was not said to one deaf or stupid, for the man instantly flew after her like lightning, and went about what he was bidden.

"All present were in great suspense, expecting the issue of this suit. In a few minutes came in the man and woman, clinging together closer than the first time, she with her petticoat tucked up, and the purse lapped up in it, and the man struggling to take it from her, but in vain, she defended it so stontly. 'Justice from God and the world!' cried she at the top of her lungs; 'see, my lord-governor, the impudence and want of fear of this varlet, who, in the midst of the town and of the street, would take from me the purse your worship commanded to be given to me.' 'And has he got it?' demanded the governor. 'Got it!' answered the woman: 'I would sooner let him take away my life than my purse. A pretty baby I should be indeed! Other-guise cats must claw my beard, and not such pitiful, sneaking tools as this. Pincers and hammers, crows and chisels, shall not get it out of my clutches, nor even the paws of a lion. My soul and body shall sooner part.' 'She is in the right,' added the man; 'I yield myself worsted and spent, and confess I have not strength to take it from her.' That said he left her. Then said the governor to the woman: 'Give me that purse, chaste and valiant heroine.' She presently delivered it, and the governor returned it to the man, and said to the violent but not violated damsel: 'Sister of mine, had you shown the same, or but half so much, courage and resolution in defending your chastity, as you have done in defending your purse, the strength of Hercules could not have forced you. Begone, in God's name, and in an ill hour, and be not found in all this island, nor in six leagues round about it, upon pain of two hundred stripes. Begone, instantly, I say, thou prating, shameless, cheating hussy!' The woman was confounded and went away, drooping her head, and discontented: and the governor said to the man: 'Honest man, go home, in the name of God, with your money, and henceforward, unless you have a mind to lose it, take care not to yoke with any body.'

"The countryman gave him thanks as clownishly as he could, and went his way. The bystanders were in fresh admiration at the decisions and sentences of their new governor, all which, being noted down by his historiographer, were immediately transmitted to the duke, who waited for them with great impatience." (Don Quixote, vol. ii. 289.)

INSANITY.

CHAPTER LVIII.

WHAT IS INSANITY?—MEDICAL DEFINITIONS.—DISTINCTION OF SANE FROM INSANE PERSONS.—MORAL INSANITY.—LEGAL DEFINITIONS —"NON COMPOS MENTIS."—SYMPTOMS OF INCIPIENT INSANITY—HALLUCINATIONS AND ILLUSIONS—LUCID INTERVALS.

What is Insanity? Medical Definitions.—The terms insanity, lunacy, unsoundness of mind, mental derangement, madness, and mental alienation or aberration, have been indifferently applied to those states of disordered mind in which a person loses the power of regulating his actions and conduct according to the ordinary rules of society. In all cases of real insanity, the intellect is more or less affected—hence the term *intellectual insanity.* In a medical sense this implies a deviation of the mental faculties from an assumed normal or healthy standard. In an insane person there may be no bodily disease, but his language and habits are changed—the reasoning power which he may have enjoyed in common with others is lost or perverted, and he is no longer fitted to discharge those duties which his social position demands. Further, from perversion of reason, he may show a disposition to commit acts which may endanger his own life or the lives of those around him. It is at this period that the law interferes for his own protection, and for that of society.

Many attempts have been made by psychologists to define insanity: but the definitions hitherto given are so imperfect that it would be difficult to find one which includes all who are insane, and excludes all who are sane. This difficulty is fully accounted for by the fact that mental disorder varies in its degree as well as in its characters; and the shades of disordered intellect in the early stages are so blended, as to be scarcely distinguishable from a state of sanity. It is this twilight condition of the mind, when it is fluctuating between sanity and insanity, which no definition can comprise, especially as the mind differs in its power and manifestations in most persons, and it is therefore difficult to fix upon a standard by which a fair comparison can be made. The vulgar notion of insanity is, that it consists in an entire deprivation of reason and consciousness; but the slightest acquaintance with the insane, proves that they are not only perfectly conscious of their actions in general, but that they reason upon their feelings and impressions. The

late Dr. Abercromby considered insanity to consist in a loss of the faculty of *attention*—the power by which we are capable of changing, controlling, arresting, or fixing the current of our thoughts. Dr. Conolly regards it as a disorder of the power of *comparison or judgment*, and Professor Marc as a loss of the faculty of *volition;* so that, in the latter point of view, the acts of the insane are involuntary, and depend upon impulses which they cannot control.

These definitions are defective, inasmuch as they are not adapted to the various forms of the disease. In some cases of insanity, as in confirmed idiocy, there is no evidence of any exercise of the intellectual faculties; but in most instances these faculties and the moral feelings are partially diseased, or partially destroyed, in every variety and degree. Thus we may meet with cases in which the faculties of attention, comparison, and volition are more or less impaired or absent, or, if present, they are never perfect, although each may not be equally affected. When no two cases are precisely similar, no definition can include all varieties of the disorder. A medical witness who ventures upon a definition, will generally find himself involved in numerous inconsistencies, for no words can possibly comprise the variable characters which this malady is liable to assume. Those who take an interest in definitions of insanity and who think they can defend them from the critical acumen of lawyers, will find them fully set forth in their medical and medico-legal aspects in a paper by Dr. Rorie. ("Ed. Monthly Journal," July, 1865, p. 13.) There are, however, cases in which a medical man may find himself compelled, if not to define insanity, at least to show some clear distinction between a sane and insane person. Thus in cases in which there has been an alleged breach of the law regarding the custody of lunatics, it may be pleaded that the person is sane, and a medical expert must then be prepared to say whether the person concerning whom the question is raised, is idiotic, lunatic, or of unsound mind, and to assign satisfactory reasons for his opinion.

[The difficulty of definition is thus expressed in a leader in the "London Times" of July 22, 1854, cited in Dr. Bucknill's Prize Essay on Criminal Lunacy (Law Library, vol. 92): "Nothing can be more slightly defined than the line of demarcation between sanity and insanity. Physicians and lawyers have vexed themselves with attempts at definition in a case where definition is impossible. There has never yet been given to the world anything in the shape of a formula upon this subject, which may not be torn to shreds in five minutes by any ordinary logician. Make the definition too narrow, it becomes meaningless; make it too wide, the whole human race are involved in the drag-net. In strictness, we are all mad when we give way to passion, to prejudice, to vice, to vanity; but if all the passionate, prejudiced, vicious, and vain people in this world are to be locked up as lunatics, who is to keep the key of the asylum? As was very fairly observed, however, by a learned Baron of the Exchequer, when he was pressed by this argument, if we are all mad, being all madmen, we must do the best we can

under such untoward circumstances. There must be a kind of rough understanding as to the forms of lunacy which can't be tolerated. We will not interfere with the spendthrift, who is flinging his patrimony away upon swindlers, harlots, and blacklegs, until he has denuded himself of his possessions and incurred debt. We have nothing to say to his brother madman, the miser, who pinches his belly to swell the balance at his bankers—being 73 years of age, and without family—but if he refuses to pay taxes, society will not accept his monomania as pleadable in bar."

Perhaps the definitions of sanity and insanity by Dr. Bucknill are as accurate as the subject admits of. *Sanity*, he defines to be, "that condition of the mind in which the emotions and instincts are all in such a state of subordination to the will, that the latter can direct and control their manifestations; in which, moreover, the intellectual faculties are capable of submitting to the will sound reasons for its actions. Such co-ordinate action of the faculties is termed sanity; a condition in which that is lost is termed insanity, or derangement, or alienation, or unsoundness, all terms having reference to the deprivation of the power of the will so directed." "It is evident," he adds, "that in this definition of sanity there are three terms, the subjected emotions, the directing intellect, and the middle term of free will. Supposing our nature to be fallible throughout its composition, it is evident that erroneous action may originate at any of these points; the mutinous emotions may be indomitable, the power of the will may be abortive, or the intellect may mislead by false guidance. Insanity may thus be Intellectual, Emotional, or Volitional, and though in the concrete it is not easy to find pure and unmixed cases under either of these heads, such cases do occasionally subject themselves to observation. The experienced psychopathist will also find little difficulty in apportioning a vast number of the other cases according to their predominant character, under one or other of these headings.

"*Insanity*, therefore, may be defined as, *A condition of the mind in which a false action of conception or judgment, a defective power of the will, or an uncontrollable violence of the emotions and instincts, have separately or conjointly been produced by disease.*"—Bucknill on Criminal Lunacy, pp. 27, 28.—P.]

Moral Insanity.—In addition to that form of insanity in which the mind is affected, known as *intellectual insanity*, Dr. Pritchard and other medico-legal writers have described a state which they call *moral insanity* (*Mania sine delirio*), which is manifested simply by a perverted or disordered state of the feelings, passions, and emotions, irrespective of any apparent intellectual aberration. There are no hallucinations or illusions, and there is no evidence of delusion, but simply a perversion of the moral sentiments. Thus it is alleged that this form of insanity may appear in the shape of a causeless suspicion, jealousy, or hatred of others, especially of those to whom the affected person ought to be attached; and it may also manifest itself under the form of a wild, reckless, and cruel disposition towards mankind in general. It does not seem probable, however,

that moral insanity, as thus defined, ever exists or can exist in any person without greater or less disturbance of the intellectual faculties. The mental powers are rarely disordered without the moral feelings partaking of the disorder; and, conversely, it is not to be expected that the moral feelings should become to any extent perverted without the intellect being affected, for perversion of moral feeling is generally observed to be one of the early symptoms of disordered reason. [See Bucknill on Criminal Lunacy, Appendix, note E.—P.] The intellectual disturbance may be sometimes difficult of detection; but in every case of true insanity it is more or less present, and it would be a highly dangeous practice to pronounce a person insane, when some evidence of its existence was not forthcoming. The law does not recognize moral insanity as an independent state; hence, however perverted the affections, moral feelings, or sentiments may be, a medical jurist must always look for some indications of disturbed reason. Medically speaking, they are, according to Dr. Pritchard, two forms of insanity, moral and intellectual; but in law there is only one—that which affects the *mind*. Moral insanity is not admitted as a bar to responsibility for civil or criminal acts, except in so far as it may be accompanied by *intellectual* disturbance. [But see the case of *Reg.* v. *Crockroft* (Leeds Autumn Assizes, 1865), cited post, in chapter 63. It is admitted in Pennsylvania. See cases of *Com.* v. *Mosler*, 4 Barr, 266. *Com.* v. *Shurlock*, 14 Leg. Int. 33. *Ib.* v. *Smith*, 15 Leg. Int. 33. *Ib.* v. *Freath*, 6 Am. Law Register, p. 400. See also Lewis's Crim. Law, 404. In most of the States, however, the law is as stated in the text, and the test still is the knowledge of right and wrong. See *Farrar* v. *State*, 2 Ohio St. R. 54. *State* v. *Spencer*, 1 Zabrieski, 196 (New Jersey). *Fisher* v. *People*, 23 Ill. 283. *Loeffner* v. *State*, 10 Ohio (N. S.) 598.—P.] Dr. Mayo denies its existence, and contends that no abnormal state of mind should confer irresponsibility unless it involves intellectual as well as moral perversion. ("Medical Testimony," p. 69.) The late Sir B. Brodie also considered that there are no reasonable grounds for admitting this to be an independent form of insanity. There has been, as he suggests, much mystification on the subject. The term has been applied to cases in which the name of insanity ought not to have been applied at all, *i. e.*, to "moral depravity," and also to cases in which delusions have really existed, and which might therefore have been more properly classed with cases of ordinary mental aberration. ("Psychological Inquiries," p. 99.) Of one fact we may be well assured: if in these cases of alleged *moral* insanity there is no indication of a perversion of intellect, *medical* evidence is not required to determine the fact or the degree of responsibility in reference to these persons. Those who administer the law, and any man endowed with plain common sense, will be as well qualified as a medical expert, to decide the question of criminal responsibility. Further, until medical men can produce a clear and well-defined distinction between moral depravity and moral insanity, such a doctrine, employed as it has been for the exculpation of persons charged with crime, should be rejected as inadmissible.

Legal Definitions.—The law of England recognizes two states of mental disorder or alienation: 1. *Dementia naturalis*, corresponding to idiocy; and 2. *Dementia adventitia*, or *accidentalis*, signifying general insanity as it occurs in persons who have once enjoyed reasoning power. To this state the term lunacy is also applied, from an influence formerly supposed to be exercised on the mind by the moon. *Lunacy* is a term generally applied to those disordered states of mind which are known to medical men under the names of mania, monomania, and dementia; and which are frequently, although not necessarily, accompanied by lucid intervals. The main character of insanity, in a legal view, is considered to be the existence of *delusion*—*i. e.*, that a person should believe something to exist which does not exist, and that he should act upon this belief. Many persons may labor under harmless delusions, and still be fitted for their social duties; but should these delusions be such as to lead them to injure themselves or others in person or property, then the case is considered to require legal interference.

Beside the terms *Idiocy* and *Lunacy*, we find another frequently employed in legal proceedings, namely, "*unsoundness of mind*"—(*non compos mentis*)—of the exact meaning of which it is impossible to give a consistent definition. From various legal decisions, it would appear that the test for unsoundness of mind in law has no immediate reference to the existence of delusion in the mind of a person, so much as to proof of incapacity from some morbid condition of intellect to manage his affairs with ordinary care and propriety. (Amos.) Neither condition will suffice to establish unsoundness without the other: for the intellect may be in a morbid state, and yet there may be no legal incompetency; or the incompetency alone may exist and depend on bodily infirmity or want of education—conditions which must not be confounded with mental disorder. Thus, then, a person may be of unsound mind, *i. e.*, legally incompetent to the control of his property, and yet not come up to the strict legal standard of lunacy or idiocy.

Some medical practitioners have attempted to draw a distinction between *insanity* and *unsoundness* of mind. A case occurred in 1839, in which a medical man hesitated to sign a certificate for the confinement of an alleged lunatic, because in it the words "unsound mind" were used. He said he would not have hesitated to sign it had the term "insane" been employed. The difference, if any exist, is purely arbitrary, and depends on the fact that "unsound mind" is a legal and not a medical phrase, referring to an incapacity to manage affairs, which insanity, in its most enlarged sense, does not always imply. The law, however, appears to admit some sort of distinction: for, according to Chitty, it is a criminal and an indictable act maliciously to publish that any person is afflicted with insanity, since it imputes to him a malady generally inducing mankind to shun his society; although it is not libellous to say that a man is not of sound mind, because no one is of perfectly sound mind but the Deity! ("Med. Jur." vol. 1, p. 351.) In reference to the signing of certificates of insanity, it is, however, an error to suppose that the use of

one term can involve a practitioner in any greater share of responsibility than the use of the other.

Symptoms of Incipient Insanity.—The symptoms by which insanity is indicated at an early stage are liable to great variation, according to the sex, age, and social position of the person. In reference to suicide, the execution of wills, or the perpetration of crime, we often find after the death of the person, or at the trial which follows the crime, that the most trivial and irrelevant circumstances are brought forward as indications of insanity. This subject has been ably treated by Dr. Forbes Winslow ("Obscure Diseases of the Brain," p. 88), and to his work I must refer the reader for much useful information. The facts are there gathered chiefly from the accounts furnished to him by those who have recovered. There is great irritability at the most trifling circumstances; impatience of contradiction, loquacity, great difficulty in directing attention to, and steadily occupying the mind with any train of thought, neglect of usual employment, sleeplessness, depression of spirits without reasonable cause, a disposition to seclusion, doubts about personal identity, followed by hallucinations and illusions. A lady, who was gradually affected, remained insane for nearly eleven months; she informed Dr. Winslow that during the whole of that time she fancied she was in hell and tormented by evil spirits; she thought every person near her was the devil. Sometimes a patient fancies he is continually watched by spies, that policemen are looking after him, and that conspiracies and plots among his relatives or friends are going on secretly against him; he believes that his food is drugged or poison, and will refuse to eat. Great anxiety on any subject followed by headache may be the forerunners of an attack; there is generally an entire loss of interest in the usual occupations, a silent manner, and a great desire for solitude. In one instance, fits of immoderate laughter at the most trivial occurrences preceded the attack. Sooner or later these symptoms are attended by perverted taste or smell; by illusions of hearing or sight; voices are heard, and objects are seen, which at first perplex and then confuse the patient; they continue until he feels overpowered mentally and bodily; and he then falls into delusions regarding himself, his friends who are about him, his profession or occupation, and his worldly circumstances.

Hallucinations and Illusions.—These are the most striking symptoms which are met with in a confirmed state of insanity. Hallucinations are those sensations which are supposed by the patient to be produced by external impressions, although no material objects act upon his senses at the time; illusions, on the other hand, are sensations produced by a false perception of objects. A man has visions of all kinds, including the forms of the dead and the living, floating before him, when he is gazing upon vacancy. He fancies he hears voices speaking or mysteriously whispering to him, while there is profound silence; these are hallucinations. Another may erroneously imagine that the taste or smell of his ordinary food is earthy, metallic or poisonous; when the perversion is in his own senses;

these are illusions. Both conditions depend upon a disordered state of the mind. Instances of hallucination are furnished by the act of dreaming; while illusions occur often during the act of suddenly waking from sleep; giving rise occasionally to serious questions involving criminal responsibility. The state of insanity is in other points of view analogous to dreaming. There is equally a want of power in the two states to change or control the current of thought passing through the mind. Things which are impossible and inconsistent, are believed to have an actual existence. A voice heard during the act of dreaming sometimes becomes an illusion connected with a current of thought then passing through the mind; it is the same in a case of confirmed insanity, with this difference in the latter, that some power of will or some exercise of reason may still exist.

Illusions are sometimes met with in the sane, but when arising from external objects, the false perception is soon corrected by a reference to the other senses; and herein consists the main difference between sanity and insanity; namely, *delusion*, or a misleading of the mind. When the hallucination or illusion is believed to have a positive existence, and this belief is not removed either by reflection or an appeal to the other senses, the person is insane; but when the false sensation is immediately detected by the judgment, and is not acted on as if it were real, then the person is sane. *Delusion*, therefore, properly refers to the judgment, and *illusion* to the senses. The meaning of these terms is often confounded; but while delusion is always connected with insanity, illusion is not necessarily indicative of mental disorder. Hallucinations and illusions are the main features of those forms of insanity which are known as mania and monomania. They are rarely met with in cases of idiocy and imbecility, sometimes in dementia, but they are most common in paroxysms of mania. Acts of murder may generally be traced to their existence, for the person laboring under mania or monomania is unable during a paroxysm to divest his mind of the belief that what he sees has a positive existence before him. He feels impelled to suicide by the hallucination of voices calling to him, and to murder by the illusion that he is not destroying a wife, child, or friend, but an evil spirit substituted for them. The acts of the insane are generally connected with their delusions, although it is not easy to trace the connection except by their own admissions. When the acts are unusual and strange, it is most probable that they depend on hallucination, illusion, or both.

Lucid Intervals.—By a lucid interval, we are to understand in a legal sense, a temporary cessation of the insanity, or a perfect restoration to reason. This state differs entirely from a remission, in which there is a mere abatement of the symptoms. It has been said that a lucid interval is only a more perfect remission, and that although the lunatic may act rationally and talk coherently, yet his brain is in an excitable state, and he labors under a greater disposition to a fresh attack of insanity than one whose mind has never been affected. Of this there can be no doubt, but the same reasoning

would tend to show that insanity is never cured; for the predisposition to an attack is undoubtedly greater in a recovered lunatic than in one who is and has always been perfectly sane. Even admitting the correctness of this reasoning, it cannot be denied that lunatics do occasionally recover for a longer or shorter period, to such a degree as to render them perfectly conscious of and legally responsible for their actions like other persons. The law intends no more than this by a lucid interval; it does not require proof that the cure is so complete that even the predisposition to the disease is entirely extirpated. Such proof, if it could even be procured, would be totally irrelevant. If a man acts rationally and talks coherently, we can have no better proof of a restoration to reason. If no delusion affecting his conduct remained in his mind, we need not concern ourselves about the degree of latent predisposition to a fresh attack which may still exist. Lucid intervals sometimes appear suddenly in the insane; the person feels as if awakened from a dream, and there is often a perfect consciousness of the absurdity of the delusion under which he was previously laboring. The duration of the interval is uncertain; it may last for a few minutes only, or may be protracted for days, weeks, months, and even years. In a medico-legal view, its alleged existence must be always looked upon with suspicion and doubt when the interval is very short.

Lucid intervals are most frequently seen in cases of mania and monomania; they occasionally exist in dementia when this state is not chronic, but has succeeded a fit of intermittent or periodical mania. They are never met with in cases of idiocy and imbecility. It is sometimes a matter of great importance to be able to show whether or not there exists or has existed a lucid interval, since, in this state, the acts of a person are deemed valid in law. The mind should be tested, as in determining whether the patient is laboring under insanity or not. He should be able to describe his feelings, and talk of the subject of his delusion, without betraying any signs of unnecessary vehemence or excitement. It may happen that the person who is the subject of a Commission of Inquiry is at the time of examination under a lucid interval, in which case there may be some difficulty in forming an opinion of the existence of insanity. It has been said that a person in a lucid interval is considered by law to be responsible for his acts, whether these are of a civil or criminal nature. In regard to criminal offences committed during a lucid interval, it is the opinion of some medical jurists that no person should be convicted under such circumstances, because there is a probability that he might at the time have been under the influence of that degree of cerebral irritation which renders a man insane. (Prichard.) This remark applies especially to those instances in which the lucid interval is very short. Juries now seldom convict, however rationally in appearance a crime may have been perpetrated, if it can be clearly proved that the accused was really insane within a short period of the time of its perpetration.

CHAPTER LIX.

VARIETIES OF INSANITY.—MANIA.—ABSTINENCE FROM FOOD.—DELUSIONS REGARDING POISON.—DELIRIUM DISTINGUISHED FROM MANIA. — MONOMANIA. — DEMENTIA. — IDIOCY. — IMBECILITY. — HEREDITARY TRANSMISSION.—FEIGNED INSANITY.—APPEARANCES AFTER DEATH.—ECCENTRICITY.

Variety of Insanity.—Medical jurists have commonly recognized four distinct forms of insanity: *Mania*, *Monomania*, *Dementia* and *Idiocy* (*Amentia*). This division was proposed by Esquirol, and although of a purely artificial nature, it is highly convenient for the arrangement and classification of the facts connected with the subject. In some instances there is great difficulty in assigning a particular case to either of these divisions, which is owing to the circumstance, that these states of disordered mind, if we except idiocy, are frequently intermixed, and are apt to pass and repass into each other. On other occasions a case may represent mixed characters which appertain to all the divisions. Some psychologists have proposed two subdivisions, namely, *Incoherency* and *Imbecility;* but the former is merely a mixed state of mania and dementia, while the latter is a term applied to those cases of idiocy wherein the mental faculties are susceptible of some degree of cultivation after birth, without reaching the normal standard.

Mania.—In this form of insanity there is a general derangement or perversion of the mental faculties, accompanied by greater or less excitement, sometimes amounting to violent fury. (Pagan's "Med. Jur. of Insanity," p. 59: Marc. "De la Folie," vol. 1, p. 211.) Ideas flow through the mind without order or connection, the person losing all control over his thoughts, and believing and acting upon them, however absurd and inconsistent they may be. Rapidity of utterance and incessant agitation accompany this state; there is also great irritability, so that not the least contradiction can be borne. Mania may take place suddenly, as after a violent moral shock, but in general it comes on slowly. It may be chronic or acute, recurrent, or continued. There are very few cases which do not present remissions, more or less complete; and in some instances after a violent attack, the reason appears to be perfectly restored, forming then what is termed a lucid interval, the clear distinction of which, in a legal point of view, is of material importance. In *recurrent mania* the attack comes on without any obvious cause. It may last for a week, a month, or even longer. There is usually a stage of excitement followed by depression before recovery. Persons laboring under mania, especially when it is associated, as it frequently is,

with paralysis, are comparatively insensible to severe injuries. They will bear exposure to cold without complaining, and even conceal the existence of a fracture or other injury which would cause great pain to a sane person. They will also sustain the privation of food for a great length of time without any apparent injury to health. In some instances, owing to a suspicion that the food is poisoned, they refuse to take any; it is then necessary to feed them with a stomach-pump. (Winslow's "Obscure Diseases of the Brain," p. 71.) This delusion respecting the poisoning of food is very common in the early stages of mania. The patient will fancy that he himself, or some favorite animal is undergoing a process of slow poisoning by a secret enemy. In the greater number of cases of mania there is excitement coming on in paroxysms without any obvious cause, and leading the person to acts of violence either towards himself or others.

It is necessary that a medical jurist should be able to distinguish *mania* from delirium depending on bodily disease. *Delirium* closely resembles the acute form of mania—so closely that mistakes have occurred, and persons laboring under it have been improperly ordered into confinement as maniacs. The following are perhaps the best differences: A disordered state of the mind is the first symptom remarked in mania; while delirium is a result of bodily disease, and there is greater febrile excitement in it than in mania. Delirium being a mere symptom attendant on the disease which produces it, exists so long as that disease and no longer; while mania depending on widely different causes, is persistent. Delirium disappears suddenly, leaving the mind clear; while mania commonly experiences only remissions. (See Pagan's "Med. Jur. of Insanity," p. 69.) In delirium there is generally acuteness of the senses. Inflammation of the brain or its membranes (*phrenitis*) is distinguished from acute mania by the mode of its attack, the presence of severe pain in the head, and excessive sensibility with intolerance of light and sound.

Monomania.—This name is applied to that condition in which the mental alienation is only partial; in other words, it is nothing more than partial insanity. In mania the mind is disordered on all kinds of subjects; in monomania the disorder is confined chiefly either to one subject or to one class of subjects. Monomaniacs are infected with false ideas on certain points, of which they cannot divest themselves, and out of which they cannot be reasoned; they start from false principles, but setting this aside, their inferences and deductions from these principles often possess logical accuracy. In every subject not connected with their special delusion, they are like the rest of the world; they talk and reason as justly upon facts as before the access of their malady, but their general deportment, habits, and character are changed. Thus, a miser may become a spendthrift, and a hard-working and industrious mechanic may pass his time in idleness; a man of moral habits will become immoral in conversation and conduct, and an abstemious man may become a drunkard.

The monomania may be so slight that the person will have the power of so controlling his thoughts and actions, as to appear like

one who is sane provided the subject of his delusion is not referred to. There is no doubt that those who are affected with monomania in an early stage, are frequently able to direct their minds with reason and propriety to the performance of their social duties, so long as these do not involve any of the subjects of their delusions. Their power of controlling their thoughts and feelings, as well as of concealing their delusions, implies a certain consciousness of their condition not usually met with in mania; and it also appears to imply the existence of such control over their conduct, as to render them equally responsible with sane persons for many of their acts. In a case of confirmed monomania, however, it is not to be supposed that a man is insane upon *one* point only, and sane upon all other subjects. The only admissible view of this disorder is that which was taken by Lord Lyndhurst, in one of his judgments. In monomania the mind is unsound; not unsound in one point only, and sound in all other respects, but this unsoundness manifests itself principally with reference to some particular object or person. (Prichard.) There is no doubt that all the mental faculties are more or less affected, but the affection is more strikingly manifested in some than in others.

The delusion of a monomaniac will be generally uppermost in his mind: his will is powerless to dismiss it, just as in mania the will is powerless to stop the constant and rapid succession of different and perhaps heterogeneous ideas which present themselves to the mind in this form of insanity. In the first stage of monomania the judgment may be strong and the mind apparently sound upon every point except the particular subject of delusion, and even in some instances, there may be such a control over this delusion, that it would be difficult to discover whether or not there was any just ground for imputing mental unsoundness; but in a more advanced form of disease, the delusion whatever it may be, whether relating to wealth, ambition, religion or politics, so overpowers the patient that he loses self-control. His character is changed, and his habits are such as to render him unfit for social intercourse; he becomes incoherent; his ideas are perverted on all subjects, and he gradually lapses into mania or dementia. The last condition happens when the monomania is of long-standing. Monomania may be remittent or intermittent, and it is sometimes accompanied with lucid intervals. Its progress is rapid, and its termination often unexpected; in some instances the disease ceases suddenly without any previous warning, owing to the effects of a strong moral shock or impression.

Monomania, in its early stage, is liable to be confounded with *eccentricity:* but there is this difference between them. In monomania there is obviously a change of character—the person is different from what he was: in eccentricity such a difference is not remarked: he is, and always has been, singular in his ideas and actions—there is no observable change of character. An eccentric man may be convinced that what he is doing is absurd and contrary to the general rules of society, but he professes to set these rules at defiance: a true monomaniac cannot be convinced of his

error, and he thinks that his acts are consistent with reason and the general conduct of mankind. In eccentricity there is the will to do or not to do: in real monomania the controlling power of the will appears to be lost. Eccentric habits suddenly acquired are, however, presumptive insanity. It will be seen hereafter that the distinction of these states is of considerable importance in relation to the testamentary capacity of persons.

Monomania frequently assumes one of two forms: either the thoughts are lively and gay, or they are oppressed with gloomy melancholy. In the first state, the persons will fancy themselves to be kings and queens, and overflowing with wealth, which they are prepared to distribute with regal profusion; in the second state, we find silence, seclusion, and the most heart-rending sorrow. The latter condition, by no means uncommon as a form of monomania, is called *melancholia* (mania with depression), or *lypemania* (λύπη, *sorrow*). Those who are affected with it suppose they have committed some unpardonable sin, and pass their hours in silence and in the most gloomy forebodings of temporal and eternal punishment. They do not sleep, and will sometimes neither eat, speak, nor move; force must be used to make them take food and exercise. In some instances no persuasion can conquer their silence; one patient thus affected was not heard to utter a word during four years. If spoken to, they shed tears and violently repulse the person who addresses them. Melancholia frequently leads to an act of suicide or murder and persons affected with it require very close watching. In the lighter forms of the disease there is no sign of mental aberration and the patient will go through his usual routine of duty, but always with the same desponding air—so that his occupation seems scarcely to distract his thoughts from the delusion for a single instant. In other cases the delusion is so well concealed that no suspicion exists, until an act of suicide leads to inquiry, and some evidence of strangeness of conduct is then for the first time forthcoming. There is either an entire absence of motive for the act, or the motive is based on a delusion.

Dementia.—This is a state which, although sometimes confounded with mania, is very different in its characters. Dementia, when confirmed, consists in a total absence of all reasoning power, and an incapacity to perceive the true relations of things; the language is incoherent, and the actions are inconsistent: the patient speaks without being conscious of the meaning of what he is saying; memory is lost, and sometimes the same word or phrase is repeated for many hours together; words are no longer connected in meaning, as they are in mania and monomania. This state is often called *fatuity;* it is a not unfrequent consequence of mania or monomania.

Dementia varies in degree. The disordered mind of aged persons is one form of dementia; here we find memory and some mental power, although the memory is restricted to objects long since past, and the exertions of the mind are only momentary. Some persons in dementia are quiet, others are in constant motion as if in search of something. There is generally a strong disposition manifested

to collect all kinds of useless articles, which are hoarded up as if they were of great value. In some instances this disease comes on gradually—the faculties both normal and intellectual, decay one by one; while in other instances, although much more rarely, dementia may occur suddenly from a violent shock or impression on the mind. Dementia may be acute or chronic, remittent or intermittent. The countenance of the patient is generally pale, vacant, and without expression, the look vague and uncertain, and tears are abundantly shed from the slightest causes.

The following may be taken as the most striking differences between mania and dementia. In mania there is an incoherence of ideas, but depending on too great rapidity of thought and excitement of the intellectual powers; in dementia there is a want of ideas, and the incoherence depends on the loss of the power of connecting them, owing to defect of memory; volition is lost and the brain seems in a state of collapse. (Esquirol, "Maladies Mentales," vol. 2, pp. 224 and 232.) In fact, in dementia there is a more or less complete abolition of the moral, intellectual, and voluntary powers; in mania, and also in monomania they are in a state of perversion. Dementia is often a consequence of these states, and sometimes alternates with them.

Idiocy. Imbecility.—Idiocy is the *dementia naturalis* of lawyers. The term idiot is applied to one who from original defect has never had mental power. Idiocy differs from the other states of insanity in the fact that it is marked by congenital deficiency of the mental faculties. There is not here a perversion or a loss of what has once been acquired, but a state in which, from defective structure of the brain, the individual has never been able to acquire any degree of intellectual power to fit him for his social position. It commences with life and continues through it, although idiots are said rarely to live beyond the age of thirty. (Esquirol, "Maladies Mentales," vol. 2, p. 284.) The deficiency of intellect is marked by a peculiar physiognomy, an absence of all expression, and a vague and unmeaning look; there is no power of speech, or only the utterance of a cry or sound; there is no will, but the actions of these beings appear to depend upon impulse, a power of imitation, or mere animal instinct; they recognize no one, they remember no one, and the mind seems to be a blank. Such is the picture of what may be termed a complete idiot. In Switzerland this state of idiocy is often accompanied with great bodily deformity, and enlargement of the thyroid gland, both in males and females; it is there termed cretinism. Cretins resemble monsters more than human beings. A confirmed idiot may in almost all cases be recognized by the expression of countenance and the form of the skull.

Idiocy is not always so complete as this description implies. There is a state scarcely separable from idiocy in which the mind is capable of receiving some ideas, and of profiting to a certain extent by instruction. Owing, however, either to original defect, or to a defect proceeding from arrested development of the brain as a result of disease or other causes operating after birth, the minds of such per-

sons are not capable of being brought to a healthy standard of intellect, like that of an ordinary person of similar age and social position. This state is called *imbecility;* it is nothing more than idiocy in a minor degree. In common language, persons laboring under it are often called idiots, but for the sake of precision in medical language they are more correctly described as imbeciles. (Esquirol, op. cit. vol. 2, p. 289.) In imbecility the physical organization differs but little from the ordinary standard; the moral and intellectual faculties are susceptible of cultivation, but to a less degree than in a perfect man, and even this capacity does not exist beyond a certain point. Imbeciles never attain a normal standard of intellect, and when placed in the same circumstances as other men they never make a similar use of their intellectual powers. They can form no abstract ideas, and sometimes their capacity to receive instruction is limited only to a certain subject—as for instance arithmetic. Their memory and judgment are limited, although sometimes the former is remarkably strong. They express themselves in a hesitating manner, and differently from other men; they require time to perceive the relations of objects which are immediately perceived by sane persons. The degree to which imbecility exists is well indicated by the power of speech. In idiots there is no speech, or only an utterance of single words; in the better class of imbeciles the speech is often easy and unaffected, while there is every grade between these two extremes. Some have arranged imbeciles in classes, according to their capacity to receive instruction; others according to their power of speech; but such divisions are practically without value; each case must be judged by itself. The precise boundary between idiocy and imbecility cannot be defined. The major degrees of imbecility approach so closely to those of idiocy, that there is no distinction between them, and in a practical view no distinction is required. Idiocy has been here described as that condition in which the congenital defect is not susceptible of being removed by any kind of instruction; but many medico-legal writers apply the term idiot to one who does manifest capacity to receive instruction, although in a low degree. The difference is immaterial so long as the meaning of the word is understood.

How are the minor degrees of imbecility to be distinguished from sanity? This is a question by no means easy to answer, for the reason that sane persons differ remarkably in their mental power to receive instruction, to retain what they have been taught, and to allow them to make a practical use of it in the world for their own benefit. How many persons pass through life and advance in the world who are yet undoubtedly weak-minded, and who have the reputation among all who know them of being so! The truth is, the lowest degrees of intelligence legally constituting sound mind, are not separable from the minor forms of imbecility, so far as the moral and intellectual faculties are concerned. By running this distinction too closely, one half of the world might easily reason itself into the right of confining the other half as insane.

Idiocy and imbecility must not be confounded with mania and

monomania. In idiots and imbeciles ideas are wanting, and the power of thought is absent or defective; in maniacs and monomaniacs the ideas flow freely, but they are perverted, and the power of thought is irregular and uncontrolled. In idiocy and imbecility we do not meet with the hallucinations and illusions which constitute the main features of mania and monomania. Idiocy is much more likely to be confounded with dementia, and indeed, when dementia is confirmed and complete (*fatuity*), there is no appreciable difference, for in neither state is there any evidence of the exercise of mental power. In idiocy no ideas have ever been formed; in imbecility they have been partially formed, but arrested; in dementia they have been more or less completely formed, but have subsequently become entirely obliterated. It is important to remember that in idiocy and imbecility there is no gradual loss or sudden impairment of the mental faculties, as is generally observed in dementia; the person is what he always has been; mentally weak and unsusceptible of any degree of improvement by instruction.

From these remarks it will be perceived that imbecility is a state existing from birth or from childhood—for it is possible that it may supervene from disease after birth, in a child in whom there was no reason to suspect its existence—but it is more common to find the deficiency congenital. Still, the term is often applied to that weakness of the mental powers which takes place in the aged at the close of life, even when the mind has been well developed in maturity. Thus we speak of the imbecility of age: this is truly nothing more than a state of *senile dementia*, and to apply to it the term "imbecility" tends to create confusion.

Such then are the four forms under which insanity or mental aberration may present itself to our notice, and although there are occasionally mixed states, as of mania and dementia (*incoherency*), yet it is an important feature in the distinction of mental disorders, to observe that in real insanity the characters presented to us in any given case do not vary materially from those which have been described as peculiar to each of these states. This medical classification, it must be remembered, is made for the sake of convenience, because by it a practitioner may be led to form a safe diagnosis of the real state of mind of a person. It is not recognized in any of the law-proceedings connected with the insane: for in these the term *unsoundness of mind*—comprehending lunacy, idiocy, imbecility, and all forms of mental weakness—is almost exclusively employed. In adopting this arrangement, a medical jurist must take care not to fall into an error which has been sometimes committed—*i. e.* of pronouncing a person to be of sound mind, because his case could not be easily placed in any one of these four great divisions of insanity. This would be as serious an error as that formerly committed by some law-authorities—namely, of giving restricted and incorrect definitions of lunacy, idiocy, and imbecility, and then contending that whoever was not a lunatic, idiot, or imbecile according to these arbitrary legal definitions, must be a person of sound mind.

Hereditary Transmission.—The hereditary transmission of insanity has sometimes presented itself as a medico-legal question in relation to the criminal responsibility of the insane. According to Chitty, it is an established rule of law, "that proof that other members of the same family have decidedly been insane is not admissible either in civil or criminal cases." ("Med. Jur." vol. 1, p. 352.) But recent decisions have shown that this statement is not correct. In *Reg.* v. *Ross Touchet* (1844), in which the accused was tried for shooting a man, and acquitted on the ground of insanity, Maule, J., held that evidence that the grandfather had been insane might be adduced, after it had been proved by medical testimony that such a disease is often hereditary in a family. It was also admitted in *Oxford's* case—the prisoner having been tried for shooting at the Queen ("Law Times," Oct. 26, 1844), and since that date it has been admitted in a number of cases in which insanity was urged as a defence on a charge of murder. [It was also admitted in Pennsylvania, in the case of *Smith* v. *Kramer*[1] (1 Am. Law. Reg. p. 353), upon the question of a

[1] [Chief Justice Gibson, in admitting the evidence in this case, thus expressed himself: "I admit the deposition without hesitation, notwithstanding the dicta of Mr. Shelford ('Treat. on Lunacy,' 59), and Mr. Chitty ('Med. Juris.' 355), that it is an established rule of law not to admit proof of insanity in other members of the family in civil or criminal cases. Established? When, where, and by whom? Certainly not by the House of Lords in *McAdam* v. *Walker* (1 Dow's Par. Ca. 148), the only case cited for it, for the question there was avowedly dodged. That high court would not shock common sense by affirming the order of the Scotch Court of Sessions: nor would it gratuitously reverse it, where the decision could be safely put on another ground. The authority of a judgment appealed from, and left in dubio, cannot be very great." * * * * * "Does not proof of hereditary madness bear directly on the condition of the mind which is the subject of investigation?

"What if the point had been ruled by the Chancellor and law judges in the House of Lords? Profoundly learned in the maxims of the law, they were profoundly ignorant of the lights of physiology; yet, free from the presumptuousness of which ignorance is the foster-father, they refused to rush on the decision of a question to which they felt themselves incompetent." * * * * * "When it is admitted by Mr. Chitty and Mr. Shelford themselves, that insanity is a descendible quality, they give up the argument. There can be nothing unreasonable in referring wild, furious, and unnatural actions, not otherwise accounted for, to the aberrations of a mind, the reflex of that of a crazy father. Mr. Taylor, a distinguished lecturer on Medical Jurisprudence in Guy's Hospital, London, says that 'in making a diagnosis of a case of insanity, the first question put is commonly in reference to the present or past existence of the disorder in other members of the family. There can be no doubt, from the concurrent testimony of many writers on insanity, that a disposition to the disease is frequently transmitted from parent to child, through many generations. M. Esquirol has remarked that this hereditary taint is the most common of all the causes to which insanity can be referred.' (Taylor on Med. Juris. 502.)" * * * * * "The knowledge attained by men of a subject with which they have grappled all their lives, ought surely to prevail against knowledge gleaned from the handbooks of a profession to which the gleaners did not belong. Strange that a source of information, open to every one else, should be closed to those who are to pass on the fact! Every man has observed that there are families, through which insanity has been handed down for generations." * * *

"An objection to an inquisition which does not disclose the specific nature of the ancestor's infirmity might stand in a different light, but testimony which brings the fact of madness home to him ought to be received like evidence of family likeness, which, though less reliable, was allowed to be corroborative proof of paternity in the Douglas Peerage case in 1767, and again in the Townsend Peerage case in 1843." * * * * * "In prosecutions for bastardy, the practice in the Quarter Sessions was, in my day, not exactly to give the child in evidence, but to put it before the jury, sometimes by the prosecutor, and sometimes by the putative father. But ancestral irregu-

testator's sanity. So in Massachusetts, *Baxter* v. *Abbott* (7 Gray, 71). In Delaware, in a trial for murder, the evidence was admitted, and it was said "that reputation in the family of such cases (of insanity) may be proved on the principle of births, deaths, genealogies, &c." (*State* v. *Windsor*, 5 Harrington, 512.) In *State* v. *Christmas* (6 Jones, Law North Carolina, 471), it was held that where hereditary insanity is offered as an excuse for crime, it must appear that the kind of insanity proposed to be proven, as existing in the prisoner, is no temporary malady; but that it is notorious, and of the same species as that with which other members of the family have been afflicted.—P.] This kind of evidence has, however, been frequently rejected, and it is not admitted in the law of Scotland. (*Gibson's* case, Edinburgh, December, 1844.)

Feigned Insanity.—Insanity is frequently feigned by persons accused of criminal offences in order to procure an acquittal or discharge. In the first place, when feigning is suspected, it will be proper to inquire whether the person has any *motive* for pretending to be insane. No sane person feigns without a motive. It is necessary to remember that insanity is never assumed until *after* the commission of a crime and the actual detection of the criminal. No one feigns insanity merely to avoid suspicion. In general, as in most cases of imposture, the part is overacted—the person does either too much or too little, and he betrays himself by inconsistencies of conduct and language which are never met with in cases of real insanity. There is commonly some probable cause to which insanity may be traced, but when the malady is feigned there is no apparent cause: in this case the appearance of the assumed insanity is always sudden—in the real malady, the progress of an attack is generally gradual; and when the attack is really sudden, then it will be found to be due to some great moral shock or other very obvious cause. We should observe whether for some time previously there has been any marked change of character in the person, or whether his conduct, when he had no interest to feign, presented any of the usual indications of a disordered mind. Some difficulty may arise when fits of eccentricity or strangeness of character are deposed to by witnesses; but these statements may be inconsistent with each other, and the previous acts of the person may bear no resemblance whatever to those performed by him in the recently assumed condition. A difficulty of this kind rarely presents itself, since in an impostor no act indicative of insanity can be adduced for any antecedent period of his life: it is only *after* the perpetration of a crime and its detection, that any action simulating the habits of the insane will be met with. In real insanity the person will *not* admit that he is insane; in the feigned state all his attempts are directed to make you believe that he is mad; and an impostor may be induced to perform

larity in the action of the brain is more frequently transmitted than any resemblance in form or feature; and it is difficult to imagine an objection to evidence of it for purposes of corroboration."—P.]

any act, if it be casually observed to another in his hearing, that the performance of such an act will furnish strong evidence of his insanity.

Mania is perhaps more frequently assumed than any other form, because the vulgar notion of insanity is, that it is made up of violent action, and vociferous and incoherent language: but mania rarely comes on suddenly, or without some obvious cause. A maniacal patient is also equally furious day and night, while an impostor is obliged to rest after his violent exertions. Dr. Burrows recommends that close attention should be paid to the expression of the eye. The mobility of the features may be as rapid as the imagination is vivid; but when every feature may vary, or be kept under control and be steady, the eye will still indicate the erring thought—its expression cannot be easily assumed. There is about the eyes in mania a restlessness which cannot fail to attract attention; the patient sleeps but little, and the sleep is disturbed—an impostor sleeps as soundly as a healthy person. The violence of a maniac continues whether he is alone or not, while the impostor acts his part only when he thinks he is observed; hence the imposition may be detected by watching him when he is not aware that an eye is directed upon him.

Appearances after Death.—In some cases a medical practitioner may be required to state whether certain appearances found in the brain of a deceased person do or do not indicate the past existence of insanity or imbecility. Such a question is only likely to arise in chronic cases, in which the past existence of insanity from oral testimony may be disputed. (Case of *Stulz*, Prerog. Court, 1852.) The appearances commonly met with on an inspection of the head are—thickening of the bones of the skull, close adhesions of the dura mater (the lining-membrane), with great congestion of the pia mater, and opacity and thickening of the arachnoid or inner membrane of the brain. There is a general fulness of the bloodvessels of the brain with remains of old cysts, hardened deposits, or even abscesses in various parts of the cerebral substance. Inferences from the existence of these appearances in the brain must, however, be drawn with caution, because it cannot be said that they necessarily indicate insanity; nevertheless, such chronic changes must be considered as producing greater or less derangement of the mental functions: but the actual degree to which the impairment has existed ought properly to be determined by evidence of the conduct and actions of the deceased during life. In a communication made by Dr. Webster to the Medico-Chirurgical Society in April, 1855, there is a statistical summary of the appearances met with in the examination of the bodies of 290 insane patients. In 226 cases the pia mater was infiltrated: in 207 effusion had taken place in the ventricles; in 184 fulness of the bloodvessels in the brain or membranes was observed; in 117 the arachnoid membrane was thickened and opaque; in 64 the color of the brain appeared changed from its natural hue; in 51 the bloody points (*puncta cruenta*) were large and numerous upon the cut surface of the medullary substance; while in 40 instances blood was

effused, sometimes to a considerable extent, within the cranium. This effusion had evidently been the immediate cause of death in most of the patients. From these data it appears that—first, infiltration of the pia mater; secondly, effusion of fluid in the ventricles; and thirdly, fulness of the cranial vessels, are the principal as also the most frequent diseased alterations of structure observed in patients who die whilst suffering under symptoms of mental disorder.

As neither the symptoms nor the duration of the insanity is given, it is difficult to apply these results to special instances. In the case of *Roberts* v. *Kerslake* (Warwick Aut. Assizes, 1854), the main question was whether certain appearances in the brain and its membranes did or did not indicate disease of long-standing as well as insanity at the particular date at which a will was made. Dr. Conolly and I considered that the appearances were not inconsistent with the supposition that the testator was sane at the time of making his will. ("Journal of Psychological Med." Oct. 1854, p. 573.)

CHAPTER LX.

MEDICO-LEGAL QUESTIONS IN RELATION TO THE INSANE.—APPLICATION OF RESTRAINT.—ILLEGAL IMPOSITION OF RESTRAINT.—VIOLENCE OF TEMPER.—CERTIFICATES OF INSANITY.—RULES FOR THE DISCHARGE OF LUNATICS.

AMONG the questions which may come before a medical jurist in relation to the subject of insanity are the following: A practitioner may be required to say whether a person affected with the malady should or should not be confined in a lunatic asylum—whether he should be deprived of his civil rights by interdiction, or whether he is so completely cured of his malady as to justify his liberation from confinement. Then again medical evidence may go far to determine whether a will or deed executed by an alleged lunatic should be set aside; whether a marriage-contract or debt should be annulled; and lastly, whether a criminal act was committed by a person while laboring under insanity—a question involving either the life or, according to circumstances, the perpetual imprisonment of a person accused of crime.

Application of Restraint.—By restraint in a legal sense we are to understand the placing of attendants to watch or control the actions of an alleged lunatic, or his forcible removal from friends or relatives with or without the confinement of his person by physical force. What are the circumstances which will justify a practitioner in applying restraint to the insane? The law has given great power in this respect to members of the medical profession, but, owing to certain abuses, the power has been of late years much restricted by various Acts of the Legislature. Most medico-legal writers agree that we are not

justified in ordering restraint except when, *from symptoms* witnessed by ourselves, we have reason to apprehend that *the lunatic will injure his person or property* or *the person or property of others.* It is then not sufficient to seek merely for evidence of the existence of some *delusion*, but to determine how far that delusion, if present, affects the conduct of the person. Unless the delusion be such as to render it probable that the patient's own interests or those of others may be damaged by his insane conduct, careful superintendence will answer all the purposes of the closest restraint. (For some remarks on this subject, see "Med. Gaz." vol. 44, p. 1061.) The act of resorting to restraint on all occasions has been justified on the principle that it may tend to the cure of a patient by removing his delusion. In this point of view the subject has reference to medical practice and not to legal medicine. It may be urged with more plausibility, that by withholding restraint in incipient cases, mischief may be done by the lunatic to himself or others, and that then it will be too late to interfere; but even here careful superintendence may render close confinement unnecessary.

The legal rule for interference with the liberty of a person, which restraint always implies, may be inferred from the following statement by Mr. J. F. Stephen: "There is a normal state in which all human creatures act on the same principles, and the general meaning of sanity is, that the person conducts himself in this normal manner; that he is acquainted with the circumstances by which he is surrounded; that he has objects in view in his actions, and that he regulates his conduct with reference to them and to the general considerations which affect matters of that class." ("General View of the Criminal Law of England," pp. 87 et seq.) It cannot be too strongly impressed on the mind of a medical man that, before he employs the powers conferred upon him by law to confine a person who is said to be mad, he should have well in his mind what lawyers imply by the term "madness," in a practical sense. As defined by Mr. Stephen, it means *conduct* of a certain character—not, as it is usually interpreted by medical men, a certain *disease* of the brain the existence of which is speculative, but one of the effects of which, if present, is to produce such conduct. In examining an alleged lunatic, with a view of determining whether he should or should not be placed in confinement, his conduct must therefore be compared with that of other men in a normal state: and here, in order to constitute sane behavior, we must look for a generic and not for a specific resemblance. Any degree of ignorance, vice, or folly is perfectly consistent with sane conduct in a legal sense. The power of restraint is not intended to be applied to such cases as these; they are properly under certain circumstances amenable to the criminal law. An ignorant, vicious, or foolish man may do a great amount of mischief, but he has a liberty of choice and freedom of action; and if from folly or depravity he selects a bad course, he is not therefore insane, but is as much responsible for his actions as a sane man who prefers a good course. Such a man should not be treated as a lunatic or confined in an asylum under a medical certificate. It

may be sometimes difficult to define the line which separates acts of depravity from those of insanity: but medical men have not been in many cases sufficiently cautious in endeavoring to make a distinction. Lawyers look closely to *conduct* as a ground of interference with personal liberty: the conduct must be such as to be inconsistent with the usual behavior of a normally sane person placed under similar circumstances.

In examining a person proposed to be placed under restraint, we must take care not to confound acts depending on violence of temper with those which proceed from unsoundness of mind. A man may have always had a violent temper, subject to occasional fits of aggravation; but this condition must not be mistaken for mental disease. In order to determine whether the acts of a person be due to violent temper or insanity, it will be proper to ascertain what may have been his natural habits. The great feature of insanity is *change of character*—a man who is really insane is different from what he has previously been; but it may be proved of a violent-tempered man that he has always been the same. The greatest abuses of the restraint system have been chiefly observed in respect to monomania, where persons have been forcibly imprisoned and confined in their persons, because they entertained some absurd delusions, over which, however, they had so great a power of control as to render it somewhat difficult even for a shrewd and experienced examiner to detect them. When at last, after many hours' cross-examination, the existence of a delusion has been made apparent, the result has been looked upon as furnishing matter for triumph and exultation; but, as Dr. Conolly justly remarks, one point in these cases appears to have been wholly lost sight of, namely—What possible injury could have resulted to the patient or his friends from the existence of a delusion over which he had such complete control and mastery as to render it a most laborious task to obtain any evidence whatever of its existence? ("Indications of Insanity.") It may be freely admitted that where delusion does exist, there is reason to suppose that the mind must be more or less disordered in all its faculties; but such patients require only close watching, not a rigorous imprisonment in an asylum. The greatest danger is to be apprehended in all those cases where there is the least power of self-control. The forcible removal of a person from his home to a lunatic asylum, unless the circumstances are of such a nature as to render immediate interference necessary on the ground of admitted or proved insanity, is unjustifiable in law, and may involve those concerned in the removal in a serious responsibility. In cases of incipient insanity interference would not be legally justifiable, and a practitioner placing restraint on a person so situated might find himself defendant in an action for damages.

In *Hill* v. *Philp* the judges decided that a medical man, when called upon to give a certificate for the confinement of a person, may act upon the directions of a wife, but that the directions must be considered as only guiding his judgment, and not as absolutely dictating to him and justifying his proceedings; that he is still

bound to exercise his own professional knowledge and discretion so far as to refrain from doing anything or adopting any course which might be injurious to the patient. A medical man is, therefore, ultimately responsible for his treatment of a lunatic: no person can give him authority to do that which is not in accordance with general practice or the necessity of the case. (For a report of this case, and some judicious remarks upon the decision, see the "Legal Examiner," May 29, 1852, pp. 307, 318.) In *Scott* v. *Wakem* (Guildford Summer Assizes, 1862), the defendant, a medical practitioner, was sued for damages in placing under restraint, and without necessity or authority, a man laboring under delirium tremens. In this case the wife denied that she had given any authority for interference, and on this point her evidence conflicted with that of the defendant, the medical man whom she had consulted. Fortunately the facts were adverse to her statement; but in future cases of this kind, it would be desirable for a medical man to have a written authority for such proceedings, bearing in mind that he does not exceed what is necessary, proper, or usual for the treatment of the person; and on this he must always exercise his own judgment, irrespective of the opinions or suggestions of others. Medical men, even when acting most conscientiously in discharge of their duties, cannot hope to escape harassing and vexatious actions when they are called upon to deal with cases of delirium tremens. The peculiarity of this disorder is that with the cause, it may soon disappear, and thus medical evidence may be easily procured to show that a person, at a short period before or after the imposition of restraint, was in a sane state of mind and not in a condition to justify any interference with his personal liberty.

In order to provide for the protection of lunatics and for the prevention of undue violence or frequency in the application of restraint, the law compels the keepers of asylums to enter in a book a report of each case or of each occasion on which any mechanical restraint is resorted to. An omission to make this entry is a misdemeanor: and at the Maidstone Lent Assizes, 1851, two medical men were convicted and fined for placing patients under restraint without having made the proper entries required by law. (*Reg.* v. *Maddock:* see also "Med. Gaz." vol. 47, p. 556; and a paper on the "Use and Abuse of Restraint," in the "Journ. Psychol. Med." 1849, p. 240.)

Certificates of Insanity.—It will here be necessary to state the circumstances which require the attention of a practitioner when he is called upon to sign a certificate of insanity, whereby a person may be placed in confinement in an asylum. The Acts which specially refer to this subject are the 16th & 17th Victoria, c. 96 and 97. These Acts, which came into operation on the 1st of November 1853, are a consolidation of the statutes on the regulation of the care and treatment of lunatics. Their provisions are very stringent, both with respect to medical men who sign certificates, and those who keep asylums for the reception of lunatics. According to s. 74, c. 97, no person (not a pauper) can be received into or detained in

any asylum, without an order from some person (generally the nearest relative) and two medical certificates, which must be signed *by two physicians, surgeons, or apothecaries* not in partnership or an assistant to the other, and each of whom shall *separately from the other* have personally examined the person to whom it relates not *more than seven clear days previously* to the reception of such person into such asylum. These certificates need not be filled up, signed, and dated on the day of examination; but the examination of the patient must be made in every case *within seven clear days* before admission.

The following is the form of a medical certificate in the case of private patients:—

I, the undersigned, being a (duly registered) physician *or* surgeon *or* apothecary [*here set forth the qualification*], and being in actual practice as such, hereby certify that I, on the day of , at [*here insert the street and number of the house (if any), or other like particulars*], in the county of &c., separately from any other medical practitioner, personally examined A. B., the person named in the accompanying statement or order, and that the said A. B. is a lunatic [*or* an idiot, *or* a person of unsound mind], and a proper person to be taken charge of and detained under care and treatment, and that I have formed this opinion upon the following grounds, viz:—

1. Facts indicating insanity observed by myself [*here state the facts*].

2. Other facts (if any) indicating insanity, communicated to me by others [*here state the information, and from whom*].

(Signed) Name.
Place of abode.

Dated this day of , One thousand eight hundred and

Under s. 10, c. 96, no person can be received into any registered hospital or licensed house, or as a single patient, under any certificate which purports to be founded only upon facts communicated by others. A medical certificate may be amended if incorrect or defective. No medical man can receive as a boarder in his house any insane person, whether for medical treatment or otherwise, unless he has previously obtained a license from the Commissioners of Lunacy, and one certificate duly signed by two other medical men. In January, 1861, a medical practitioner was convicted of misdemeanor for thus receiving illegally a lunatic patient. (*Reg.* v. *Kelley*, C. C. C. Jan. 29, 1861.) This was a clear breach of the regulations. The defence was that he was ignorant of the law, but this was no answer to the charge. ("Med. Times and Gaz." Jan. 28, 1861, p. 105; and "Lancet," Feb. 9, 1861, p. 151.)

Dr. Millar, who has had considerable experience as the superintendent of a large lunatic asylum, states that, as a rule, very few of the certificates which are brought with private patients are correctly filled up, notwithstanding the plainness of the instructions. The omission of particulars apparently of no importance has often caused them to be rejected as illegal; and it will therefore be useful to point

out the chief errors which, according to this gentleman, are committed by medical men. 1st. A neglect in stating the qualification which empowers the medical practitioner to practise. It is not unusual for the blank space to be filled up with the words "physician," "surgeon," or "apothecary," instead of inserting the *qualification* which enables him to practise in any of these capacities. 2dly. Omitting the address of the house at which the examination was made. If there should be no number to the house, it will be sufficient to state, "At the dwelling-house of ——, in —— street, village, &c." 3dly. Omitting the address and occupation of the person examined. In nine cases out of ten, according to Dr. Millar, an omission of one of these three simple and obvious particulars, occurs—a degree of carelessness not creditable to the profession. Medical men no doubt err from regarding them as having no bearing whatever on the sanity or insanity of a patient. (See Millar's "Hints on Insanity," p. 78.)

By s. 13, c. 96, a medical practitioner who gives a false certificate, or any person not being a registered physician, surgeon, or apothecary in actual practice, who gives a certificate as such, is declared to be guilty of a misdemeanor. For any act done by a registered medical practitioner contrary to any of the provisions of the Act (although not declared to be a misdemeanor), he is subjected for each proved offence to a penalty of twenty pounds. By s. 36 the words "physician," "surgeon," or "apothecary" shall respectively mean one duly "licensed or registered to practise as such by or as a member of some College, University, Company, or Institution, legally constituted and qualified to grant such authority or license in some part of the *United Kingdom*, or one who was in practice as an apothecary in *England or Wales* on or before the 1st day of August, 1815, and being in *actual* practice as such physician, surgeon, or apothecary." (16 & 17 Vict. cap. 96, s. 36.) Thus the certificates of Irish medical practitioners are valid for the confinement of lunatics in England, and conversely those of English practitioners are valid for asylums in Ireland. A special Act has been passed for Scotland (20 & 21 Vict. c. 71): and by sections 34 and 35 the rules regarding certificates are similar to those of the English statute.

A medical practitioner must not be too ready to lend himself to the signing of certificates for the confinement of persons who may be laboring under harmless delusions. In violent mania, or in monomania with a homicidal or a suicidal propensity, there can be no doubt of the propriety of applying some degree of restraint, for here the necessity is imminent. If a remarkable change has suddenly taken place in the character of a person, if he has become irritable, outrageous, or threatened personal violence to any one, or if he has recklessly endangered the interests of himself and family, he is undoubtedly a fit subject for restraint. (See Pagan, p. 75.) The more he approaches to this condition, the less difficulty we shall have in coming to a decision, and in a really doubtful instance there will be no impropriety in employing restraint; since, although the person is thereby deprived of liberty, it is better that this should

happen than that he or his friends should incur the risk of suffering severely by his insane conduct.

The 74th section of cap. 97 provides that in cases of emergency a person (not a pauper) may, under special circumstances (these being stated in the order), be received into a house or hospital upon a certificate signed by *one* medical practitioner only, provided that within *three days* two other such certificates are signed by two other medical practitioners not being connected with such house or hospital, upon a like examination. The detaining of a person upon one medical certificate only beyond the period of three days, without such further certificates, is a misdemeanor in the keeper of the house or hospital. By s. 67, c. 97, the certificate of *one* medical practitioner only, signed according to the above rules, will suffice for a *pauper lunatic*, provided the person has been previously examined by a justice, clergyman, and overseer or relieving officer. By s. 12, c. 96, no medical practitioner who is interested in or attends a licensed house or hospital, or whose father, brother, son, partner, or assistant is wholly or partly the proprietor of, or a regular professional attendant in, such house or hospital, shall sign any certificate for the reception of a patient into it. It is obvious from the terms of the Act that one person cannot sign a certificate as a substitute for another, and yet there have been several instances of its violation under these circumstances. In December, 1855, a medical assistant was committed for trial because he had signed the name of the surgeon with whom he was living to a certificate of insanity for the confinement of a pauper lunatic. There was no doubt about the insanity of the person, and the plea urged in defence was that the surgeon whose name was thus forged was in ill-health, and had given the assistant an authority to sign papers for him. This, however, was no justification of a violation of the terms of the Act: the words of the certificate are so explicit on this point that no reasonable person can have any doubt about their meaning.

[The principal hospitals for the insane of the United States have printed forms and obligations, which are furnished to the friends of patients to be filled up and signed according to the law of the State, and the rules of the hospital. The form of the medical certificate generally requires the patient to have been seen and examined by the physician signing, on the day on which the certificate is dated. In all cases the certificate is expected to apply only to the actual condition of the patient at the time of signing, and to be used without delay in order to be available.

The medical certificate must always be accompanied by a formal application for admission of the patient, signed by a responsible guardian, near relative or friend. These papers have also annexed to them, a series of questions relating to the past history and existing condition of the patient, the peculiar symptoms of the case, and the probable cause of the attack; which questions are to be answered by the friends and relatives, and the attending physician.

Some hospitals require the signatures of two physicians to the medical certificate, neither of them, of course, being connected with

the hospitals applied to. The State Lunatic Hospital of New Jersey requires the medical certificate to be formally deposed to by two physicians before a magistrate.

Patients sometimes obtain their discharge on a writ of habeas corpus, but are generally removed by friends or discharged, when sufficiently recovered, at the discretion of the superintendent. We are not aware of any legal restriction in this country on the liberation of insane patients, except in cases of homicidal or otherwise dangerous lunatics, who have been confined by order of a magistrate or of a court of law. Such patients can only be released by an authority similar to that which first committed them. There are patients of this class now in durance at the Eastern State Penitentiary of Pennsylvania, and in the different State Asylums.—H.]

As ignorance of the law is not allowed to be an excuse for its violation, so a medical man, unless acquainted with all the particulars above mentioned, may easily subject himself to a prosecution or a civil action; and he is not likely to be spared the disgrace and mortification attendant upon either, should it happen that the case is of a doubtful nature. The law expressly requires from each medical man a separate visit, a separate personal examination of the alleged lunatic, and a separate medical certificate, setting forth the *special fact or facts* (whether observed by himself or derived from the information of others) upon which his opinion is based. Dr. Conolly has shown that there are objections to the severity of the restrictions regarding the certificates. ("Journal of Medical Science," April, 1861, p. 127), but some recent cases have proved that they are not even strong enough to prevent sane persons from being wrongfully sent as lunatics to asylums.

Specification of Facts.—It will be observed that every medical practitioner signing a certificate of insanity is required to specify the *facts upon which his opinion is formed*, and whether such facts are derived *from his own observation* or from the information of any other person. Medical practitioners have had some difficulty in performing this duty, *i. e.* in assigning the fact or facts upon which their judgment of the insanity of a person is based. ("Med. Gaz.," vol. 36, p. 1434; and vol. 37, p. 485.) What will constitute the description of a fact to render a certificate valid? This important question was raised and decided in the case of *Shuttleworth* (Queen's Bench, Nov. 17, 1847). An application was made for the discharge of a lunatic on the ground that the medical certificates did not set forth the *facts* from which the opinion of those who signed them was derived. In one it was stated that the lunatic labored under a *variety of delusions*, and that she was *dirty and indecent in the extreme;* in the other the certifier stated that he had formed his opinion from the *conversation* which he had that day had with her. It was contended that the statement in the first certificate was not so much a fact as a conclusion drawn from other facts, which ought to have been mentioned in the certificate itself. Lord Denman, in giving the judgment of the court, held that the certificates were valid—that it was not necessary to have all the delusions of an insane per-

son stated in the certificate. The statement that the lunatic was dirty and indecent in the extreme was *primâ facie* sufficient to justify the imputation of insanity, even if the certificate did not state that the patient labored under a variety of delusions: the allegation that the opinion respecting insanity was founded upon a conversation with the alleged lunatic was also sufficient to render the certificate valid. ("Med. Gaz.," vol. 38, p. 932; also "Law Times," Nov. 21, 1846, p. 145.) Hence it follows that a general statement of the circumstances which have led to the belief in the insanity of a person, will be a sufficient compliance with the requirements of the statute to render a certificate valid, provided the examination has been made *bonâ fide* and with due care and attention.

Dr. Millar has shown how little the words "Facts indicating insanity observed by myself," are appreciated or even understood by many medical men, who are legally empowered as registered members of the profession to sign these certificates. The facts are frequently stated in a loose and careless manner, showing a complete misapprehension of their meaning. What is really required by the law is a statement of facts observed or witnessed by the medical man himself, which would carry conviction to the mind of any non-professional man reading it, that the person to whom it referred was of unsound mind. A medical man should in all cases avoid giving as a fact indicating insanity, any delusion which might in reality have some foundation in truth. With respect to the second requirement of the statute—namely, "Other facts (if any) indicating insanity communicated by others"—it may be observed that, although these do not supersede the facts observed by the medical man himself, they are of great importance in throwing light upon the propensities or habits of the patient, and thus serve as a guide for treatment. (Op. cit., p. 79.) A medical man must take care to draw a clear distinction between the facts observed by himself and the facts communicated to him by others, and avoid such vague expressions as that he "thinks" and "believes," &c.

As every medical certificate, although accepted by the Commissioners of Lunacy, may become at a future time a subject of close and hostile criticism in court, a medical practitioner should be fully prepared to justify the use of the terms which he has employed. It is therefore desirable that he should studiously avoid any misstatement or exaggeration of the symptoms. One of the facts cited as indicative of insanity in an old lady was, that she kept a cockatoo! In the case of *Davies*, the tea-dealer, Lord Brougham, then a counsel at the bar retained to oppose the commission against the alleged lunatic, elicited from one of the witnesses, as a fact upon which he relied to indicate insanity—that when asked the question, Mr. Davies did not know how much change he had in his pocket! Another relied upon the fact as indicative of weak mind, that the alleged lunatic had said he preferred seeing the people come from Epsom races rather than the racing on the course! Vague and trivial facts which do not indicate insanity, naturally tend to produce a feeling in the minds of the jury the very reverse of that for which they are

brought forward. Thus in this case, although there could be no doubt, from what subsequently occurred, that Mr. Davies was a lunatic and a fit and proper person to be placed under restraint, yet the eloquence of Lord Brougham, and the result of a skilful cross-examination in bringing into prominence the weakness of the facts on which the witnesses relied to establish insanity, had such an influence with the jury that they returned a verdict in favor of the lunatic, and for a time he was considered as the unhappy victim of an unjust persecution on the part of his mother and other relatives. In a case referred to by Dr. Bucknill, one of the medical men certifying to the insanity of a gentleman, who was at that time undoubtedly insane, had stated as facts *observed by himself*, that "his (the patient's) habits were intemperate, and that he had squandered his property in mining speculations." But on cross-examination in the Queen's Bench, he was obliged to confess that the only act of intemperance he had actually observed was the patient's drinking one glass of beer, and that the squandering of property was the loss of what was to him a mere trifle in a mining speculation, which eventually turned out to be a very good one. (Millar's "Hints on Insanity," 1861, p. 187.) Counsel properly hold a medical practitioner strictly to the common and accepted meaning of the words which he uses.

No professional man is compelled to take upon himself the responsible duty of signing certificates of insanity; but if he does undertake it, he must perform it with reasonable care and ordinary skill. If he certifies that a person is laboring under delusions, he must take care that he understands the meaning of the term and what are the delusions; and admitting that he is correct in believing from his own observation that they exist in the mind of the patient, it must be remembered that, in order to justify restraint or imprisonment in an asylum, the law looks always to the influence of these delusions upon conduct.

In reference to the important question of medical responsibility, the following observations were made by the learned judge in the case of *Hall* v. *Semple* (Q. B. Dec. 1862): "The true ground of complaint is the negligence of the defendant and the want of due care in the discharge of the duty thrown upon him: and I think that if a person assumes the duty of a medical man under this statute, and signs a certificate of insanity which is untrue, without making the proper examination or inquiries which the circumstances of the case would require from a medical man using proper care and skill in such a matter—if he states that which is untrue, and damage ensues to the party thereby, he is liable to an action, and it is to that I desire to direct your particular attention. In point of law, if a medical man assumes under this statute the duty of signing a certificate, without making due and proper examination which a medical man under such circumstances ought to make, not in the exercise of the extremest possible care, but in the exercise of ordinary care, so that he is guilty of culpable negligence and damage ensue, then an action will lie against him, although there may have been no impro-

per motive, and the certificate may not be false to his knowledge." In this case the jury found a verdict for the plaintiff—that the certificate was untrue in effect, and that it had been signed without proper examination and inquiries, and without probable cause.

Discharge of Lunatics.—In forming an opinion relative to the propriety of discharging a person who has once been confined as a lunatic in an asylum, it is proper to examine the particulars of his case with the same caution as if the object were to confine him for the first time. The question of liberation is commonly restricted, like that of restraint, to cases of mania and monomania. It may so happen that the person has a lucid interval at the time of examination, in which case it will be necessary to make more than one visit. One who has been guilty of a heinous crime like murder should never, on any pretence, be discharged. There are often long lucid intervals in homicidal mania, and it is impossible to be certain that the disease is entirely removed. If the person has manifested the least disposition to suicide, we should be extremely cautious in liberating him; for suicidal mania is often artfully concealed under a cheerful exterior. We cannot always test the propriety of granting liberation by the lightness of the offence for which a criminal lunatic has been confined. The circumstances under which the most trifling offence has been committed may show that the mind is wholly unsettled with regard to moral responsibility; and such lunatics can never be trusted, even when there is a great improvement in their language and deportment.

The 16th and 17th of Victoria, c. 97, has placed certain restrictions on the power of liberating lunatics. Under ss. 83 and 84, the person originally signing the order which is required in addition to the medical certificates, may write an order for the discharge or removal; but under s. 84 this order is of no effect, if a medical practitioner certify that in his opinion such patient is dangerous and unfit to be at large, together with the grounds on which his opinion is founded, unless the commissioners or visitor shall, after the production of such certificate give their consent in writing for the removal or discharge of such patient. Under other clauses, additional powers of discharge are given to the commissioners and visitors, subject to such restrictions as to leave the control for the most part in the hands of professional men. These powers of discharge do not, however, apply either to criminal lunatics or to those found insane under a commission issued by the Lord Chancellor.

CHAPTER LXI.

INTERDICTION.—COMMISSIONS OF LUNACY.—EXAMINATION OF ALLEGED LUNATICS.—MEDICAL AND LEGAL TESTS OF COMPETENCY.—CONFLICT OF EVIDENCE AND OPINION.

Interdiction.—By interdiction we are to understand the depriving of a person laboring under mental disorder of his civil rights; in other words, preventing him from exercising any control or management over his affairs. It may be with or without restraint, for one condition does not necessarily imply the other, although there is a popular idea to the contrary. In *Re Smith* (June, 1862) an order for a jury was issued to try the question of sanity or insanity, and in affirming the order, Lord Justice Knight Bruce made the following statement: "It is desirable to remove the idea, but too generally entertained by persons (common persons) in different stations of life, that the finding by a jury that a person is of unsound mind necessarily involves an interference with his personal freedom: it does not. The court places no further restraint upon a lunatic than is necessary for his protection, and I would refer to the fact that there are several lunatics living under the protection of the court who reside in their own houses with large establishments."

When a person, from mental incompetency, is liable to be imposed upon by others, or is guilty of foolish and extravagant acts, whereby his property is damaged, a Commission is commonly granted by the Court of Chancery, in order to determine whether he be "*compos*" or "*non compos mentis.*" This writ is well known under the name of "*de lunatico inquirendo.*" Before it can be issued it is necessary, among other matters, that there should be affidavits made by two or three physicians or surgeons, certifying to the insanity of the party. It has been already explained that the object of the Commission is to determine whether the incapacity to manage affairs is owing to some *mental* defect or disorder, and not merely to want of education or bodily infirmity—otherwise all wealthy minors and infirm persons might be improperly deprived of the control of their property. Formerly Commissions were not issued unless it was evident that lunacy or idiocy existed—for weakness of mind or imbecility was not considered sufficient to justify legal interference. This is no longer the case, "unsoundness of mind with incompetency" being all that the law requires to be established. Thus, then, whether the case be one of mania, monomania, or dementia is not now the question, but whether the party be *compos* or *non compos mentis;* if the latter, whether it be to a degree to prevent him from controlling his property with careful and provident management. There was a strange contradiction in our system of jurisprudence some years ago. A

person who had a delusion on a particular subject, although not affecting his social duties, was deemed a fit subject for a Commission, and deprived of his civil rights merely because his mental disorder would fall under the definition of lunacy. On the other hand, one who had no delusion, but great mental weakness, such as to incapacitate him from properly managing his affairs, was not deemed a fit subject for a Commission; since weakness of mind and insanity were considered to be two entirely different states—the latter alone requiring interference, although the injurious results were the same in both cases.

It is unfortunate that these Commissions have been usually conducted on so expensive a scale as to render them applicable only to the wealthy classes of society: and even here the expenses attending such a simple inquiry as that for which the Commission is issued, have been often of the most ruinous kind, and the results by no means satisfactory. The Lord Chancellor has it now in his power to direct an inquiry to be made before one or two commissioners, in which case a jury is dispensed with. Evidence may then be received, and the decision left with the commissioner or commissioners so appointed. The costs of an inquiry by this regulation are greatly reduced; but even under the amended law no Commission of Lunacy can be had at a less expense than £60, and this only in uncontested cases. This form of proceeding is now adopted in the greater number of cases, so that out of 575 commissions in ten years only 21 were before juries. The Lunacy Regulation Acts are the 16th & 17th Vict. c. 70 (1853), and the 25th & 26th Vict. c. 86 (August, 1862). The last-mentioned Act has greatly improved proceedings in lunacy, and has removed much of the injustice which formerly prevailed. In order to shorten these inquiries and lessen the expenses, the order under s. 3 is to be confined to the question whether or not the person is "at the time of unsound mind and incapable of managing himself and his affairs." No evidence on his conduct is to be received as a proof of insanity unless it refers to a period within two years of the date of the inquiry. In cases of contested imbecility, this provision might exclude important evidence, but there is a discretionary power in the judge to admit it. Section 4 allows of the case being tried by a jury at common law. The alleged lunatic is to be examined before the taking of the evidence, and at the close of the proceedings before the jury consult on their verdict. Under s. 12 power is given to the Chancellor to dispense with commissions in reference to persons who have but small property, and there are in this statute other strict rules regarding the visiting of lunatics confined in asylums.

One source of difficulty on these occasions is, that medical witnesses are allowed to be separately sought out and summoned by those who are for and against the commission, and the opinions given by them often exactly neutralize each other. Under these circumstances they are converted into partisans in the cause as much as if they were counsel. It has been well remarked, that a man even unknown to himself, with the purest intentions and the most perfect rectitude, will insensibly lean to the side on which he has been consulted or employed. (Pagan, p. 301.) The public are apt

to infer from such conflicting opinions emanating from men of equal experience, that the difference cannot depend essentially on the *medical* facts of a case, and that the question might as well or even better be determined by non-professional persons. See the case of *Mrs. Cumming* ("Journal of Psychological Medicine" for April 1852), in which the conflict of medical testimony was even greater than usual. A large portion of this lady's property was spent in determining by a verdict that she was insane; and there was an intention that the remainder should be expended in reversing the decision, when the unfortunate lady died!

One remedy for this serious evil would be, that medical experts on such occasions should be selected and appointed by the Lord Chancellor, to examine an alleged lunatic and give evidence on his condition; they should be in all cases made perfectly independent of both parties. At present they rather occupy the position of medical counsel than medical witnesses, for it is quite clear that no one would be summoned whose views did not coincide with those of the party summoning him; and it is an opinion among some solicitors —for which, unfortunately, there is apparent reason—that medical evidence on these occasions is a marketable commodity, and may be purchased at graduated prices! There are some medical men who appear to think that on these occasions they are justified in sinking the witness in the advocate, and that they are bound by a sort of duty to make the best of the case for the person who retains them: but this is a mistaken view of their position. An advocate is not bound by an oath to state "the truth, the whole truth, and nothing but the truth;" but a scientific witness is placed under this sacred obligation, and it is a duty which he owes to his profession and to society that he should lay aside all personal bias. It may appear an innocent matter to suppress some facts and to exaggerate the importance of others, in order to induce a jury to pronounce one whose mental soundness is in question to be perfectly sane and competent: but the same mercenary zeal which would thus lead to the civil freedom of an insane person, might on another occasion be employed in unjustly depriving a sane person of his liberty. The confidence of the public in medical opinions in reference to the insane has been by recent events already much shaken; and it would be altogether destroyed, and such opinions entirely dispensed with, if it were once known that a medical man on these occasions accepted a retaining fee not to speak the whole truth but, rightly or wrongly, to give his evidence in favor of the party who consulted him. Whatever may be the difficulties of the case, experienced solicitors know that if they only search far enough they will generally fall upon some medical men who will adopt their views. (The reader will find some remarks on this subject in the "Medical Gazette," vol. 5, p. 719; vol. 11, p. 740; and vol. 17, p. 816).

Examination of Alleged Lunatics.—To determine whether a person is or is not a fit subject for interdiction or deprivation of civil rights, it is necessary to bear in mind that it is not enough to show there is *delusion*, as in the lighter cases of monomania; but we are bound to ascertain how far the delusion affects the judgment of the person, so

as to prevent him, like other men, from managing his affairs with provident care and propriety. In many instances, however, some proof of *delusion* only is sought for: and if this be procured, it is hastily inferred that the person must be entirely incompetent to manage his property. The most difficult cases are those which involve questions of imbecility. In conducting the defence of the *Windham* case (Dec. 1861), Sir Hugh Cairns was allowed by his medical adviser to make the following strange statement: "In a case of insanity accompanied by delusions, the mode of investigating it so as to arrive at the truth is a matter of great difficulty and doubt: but in a case of imbecility, where there is either no mind at all or next to none, the task of coming to a right and just decision is comparatively easy." Such a statement is the reverse of the truth, and must have been made under some hazy notion that the state of imbecility was identical with that of idiocy. One of his own witnesses (Dr. Sutherland), in a subsequent stage of the proceedings, corrected this error, by the admission in cross-examination, that "drawing the line between soundness and unsoundness of mind in cases of imbecility, is one of the most difficult questions of medical science."

In conducting the examination of an alleged lunatic, we should compare his mind as it is with what it is proved to have been; and if it be a case of supposed imbecility, a proper regard must be had to age, society, education, and general conduct. We should also consider whether the person has been treated by his friends and relations as a lunatic or imbecile prior to the issuing of the commission. A young person whose education has been much neglected, and who has never been intrusted with the care of money, cannot be expected to have much knowledge of the method of managing a large property. Questions are sometimes put on the moral responsibility of man and the attributes of God, to one who, perhaps, never heard of ethics or metaphysics. Again, mathematical and arithmetical questions, which would embarrass many persons who are set down as sane and competent, are sometimes put in cases of alleged imbecility. In one instance a physician gave evidence on a commission that he found the alleged imbecile could not work the first proposition in Euclid, but this person admitted that he had always disliked mathematics. In a case which occurred in Scotland, one examiner asked the alleged imbecile, who said he had 1,200*l.* in the Bank, and received 20*l.* for interest—How much was that per cent.? He said he could not tell; he was no good hand at arithmetic. The counsel who appeared against the brieve or commission afterwards put the same arithmetical question to one of the medical witnesses who had deposed to the imbecility of the party; and this witness, an educated man, confessed himself quite unable to answer it—a practical illustration of the impropriety of pronouncing a person to be imbecile or incompetent merely because he is ignorant of that which he has never been taught! (Case of *David Yoolow.*) If the capacity to manage affairs rested solely upon a knowledge of arithmetic, many now go free who ought to be immediately placed under interdiction. This is rather a commercial test of insanity: but it will be found that it has been applied in a very

improper manner to determine the capacity of young and ill-educated women. Unless the questions are confined to those subjects which the person has had either the opportunity or inclination to learn, a medical witness will always incur the risk of confounding mere ignorance with imbecility.

One of the best tests of mental capacity will be found in determining the degree to which, with ordinary opportunities, a person has shown himself capable of being instructed; but too high a standard must not be assumed as a test of capacity. The mind of an alleged imbecile should not be compared with the most perfect mind, but with that of another person of average capacity, of the same age and station in society, and who has enjoyed like opportunities of instruction. It would be difficult to find two sane persons who were exactly equal in mental power: in some, one faculty is prominently developed, in others another. All that we have to look for in these cases of alleged unsoundness is an average degree of intellectual development so as to qualify the person for performing the duties of his station. To win the confidence of an alleged lunatic for the purpose of examination, we should not treat his observations or delusions with levity, but rather seriously sympathize with him in his troubles; we should listen attentively to all he has to say, for his suspicions will be excited by many questions being put to him. If we cannot agree with his conclusions, we should not contradict him abruptly, but endeavor to draw him out by asking for some corroborative evidence of his statements. Dr. Millar has properly advised that, before visiting the patient, we should make ourselves thoroughly acquainted with every particular connected with his history and condition, and treat him as much like a sane person as possible. The insane are exceedingly suspicious, and quick to detect any deceit practised on them. They are also jealous of the intrusion of strangers, and, unless great tact is employed, will look upon a medical man as an enemy. ("Hints on Insanity," p. 58.) The patient should be informed that his perceptions are merely the result of natural disease; it is useless to tell him that he is under a delusion when his perceptions, although sometimes exaggerated, are too real to be doubted. (Op. cit. p. 36.)

The conflicting medical evidence given on Commissions of Lunacy is in great part to be ascribed to the fact, that the whole of the mind of the person is not fairly examined. One physician tests one faculty, another, another; each has his own theory of insanity, and each his standard of competency. The witnesses in support of the commission do not go so much to test the actual state of mind of the person, as to discover what they deem proofs of insanity: those against the commission take an opposite course—they look only for some proofs of soundness. It cannot therefore happen otherwise than that different conclusions should be drawn under such different modes of investigation. There is another point which requires attention in these cases. Persons laboring under a slight degree of imbecility are very soon irritated; they are easily persuaded that they are ill used and persecuted; and when they happen to be questioned by parties who are represented as their enemies, they lose

their self-command, and are no longer able to answer questions, which under their ordinary state of mind they would reply to with perfect accuracy. (Pagan, op. cit. p. 302.)

A defective memory must not be hastily set down as a proof of legal unsoundness. This is more or less the natural result of age. A man may not have a good memory, and yet have a mind sound enough for the management of his affairs. A defective memory in an aged person, taken alone, proves nothing. (See "Ann. d'Hyg." 1836, vol. 1, p. 192.)

A medical witness must not allow himself to be embarrassed by medical or legal definitions of insanity. The malady may not assume the form of lunacy or idiocy, in a strictly legal view—nor of mania, monomania, dementia, or idiocy, in a strictly medical view; but still it may be a case of *such mental disorder* as to create *an incapacity for managing affairs.* This is the point to which a medical examiner has to direct his attention. Cases of imbecility present the greatest difficulty, and create the greatest conflict of opinion among medical witnesses. Imbecility strictly implies a weak or feeble mind, and the term is properly applied to one who has an intellect below par or below the normal average. The vagueness of these terms shows how difficult it is to draw a clear distinction between legal sanity and that degree of mental weakness implied by imbecility which would justify interdiction. Insanity in the common acceptation of the term cannot be proved in these cases: there will be no evidence of delusion, and there may be such an amount of self-control as to enable a person to maintain a conversation. Memory, judgment, and other faculties, although weak, are still present in a greater or less degree; and from one or two interviews only, an examiner might be disposed to pronounce the person of sound mind and competent to manage his own affairs. There is a wide field for argument here; for it may be said with some truth in a defence, "that the doctors cannot put their fingers on a single point indicative of insanity." In short, each fact specified by them may be frittered away by the remark that every one must have known some person who had either a bad memory or a weak judgment; who squandered money, who wasted it on unworthy objects, who hoarded it and refused to pay just debts, or who lost it in foolish speculations, &c. All this may be true, and yet the person in question may be legally of unsound mind and properly interdicted. As Dr. Pagan justly remarks, there is a facility of disposition in an imbecile or weak-minded person, which lays him open to be imposed upon by the artful and designing: and our conclusion regarding his competency must therefore be the result of a just appreciation of his general knowledge of affairs, derived from an examination of *all* his faculties. We have to consider how far his imperfect mind would prevent him from attending to his own interests, not in a manner which would insure their most profitable application, but in such a way as would prevent his affairs from being involved in ruin. His knowledge and understanding may be so imperfect that his property would necessarily go to waste under his unassisted control. When it is proved that there has been habitual submission to the dictation

of others, either from a long habit of being controlled, from indifference, or fear—when a man has allowed himself to be disobeyed or neglected by his servants, and to be openly cheated by tradesmen —these circumstances furnish evidence of weakness of mind, and a justification of the opinion that there should be interdiction. (Op. cit. p. 203.) On the other hand, if a person when left to himself has managed his affairs with reasonable care and propriety, and has acted independently of others, there can be no stronger proof of his legal competency. [See the very able opinion of PATTON, P. J., in *McElroy's* case, 6 W. & S. 451.—P.]

The testamentary capacity of imbeciles may be tried by the same rules. A man who is of such an easy disposition as to be improperly influenced in the use of his property while living, may be equally influenced by fear or control to make an improper disposition of it by his will; but in this case the terms of the will, if drawn up by himself, will allow a fair judgment to be formed of the mental soundness of the testator. There is on these occasions a method of testing the state of mind which has been suggested by Dr. Conolly —namely, by inducing the patient to express his thoughts in writing, as in a letter addressed either to his physician or to some confidential friend. This plan would probably often succeed in developing the existence of a latent delusion, when an examination would wholly fail; the patient would not be led to suspect that he was being subjected to an examination for a hostile purpose. The current of his thoughts would be uninfluenced by the suspicion, that the act of writing was to test the state of his mind; and as no man can long write in a connected manner who does not think collectedly, so we may expect to find ample evidence whether a delusion really exists in his mind or not. There are cases recorded in which the evidence of delusion has been derived from the terms of a will or deed written or dictated by the lunatic himself, when there was great difficulty in obtaining proof by an oral examination.

In idiocy there is no capacity for writing. In dementia, as there is no memory, it commonly happens that the same word is written over and over again. No person in a state of dementia can write a connected sentence, because before the last part of the sentence is completed the first is entirely forgotten. In imbecility we may meet with every variety of mental defect, but the state of the mind is pretty well shown by the expression of the thoughts in writing. This method, it must be remembered, cannot show whether or not a person is capable of managing his affairs: it is a mere index of a certain state of the mind, and must be coupled with general habits and conduct, before any conclusion is drawn from it relative to the propriety of interdiction. It will often serve to detect the existence of a delusion when other means fail. Dr. Forbes Winslow attaches some importance to handwriting as foreshadowing the occurrence of general paralysis with softening of the brain. This, however, refers not so much to composition or style as correct writing and spelling. (Op. cit. p. 464.) The reader will find a complete essay on the writings of the insane, and the medico-legal conclusions to which they lead, by Dr. Marcé, in the "Ann. D'Hyg. Publique," 1864, vol. 1, p. 379.

When a verdict of insanity is returned under a commission, it must always represent the party to be of unsound mind, and by reason of that unsoundness to be incompetent to manage his affairs. A date must be fixed at which the insanity first appeared, and this date should always be anterior to the issuing of the commission. If there be lucid intervals, the space of time occupied by these should also be defined.

Among cases well calculated to show the conflict of medical evidence is that of the late *Mr. W. F. Windham* (December, 1861). Fifteen of the relatives of this gentleman petitioned for an inquiry into his state of mind on the ground that he labored under congenital deficiency of intellect, and this view was supported by strong medical opinions; on the other side it was alleged that the mental condition of Mr. Windham, if below the normal standard, was merely the result of a neglected education. The inquiry lasted thirty-three days, during which 140 witnesses were examined—namely, fifty on the part of the petitioners, and ninety in favor of Mr. Windham, at a cost of about 30,000*l.* There was no proof of the want of the opportunity of education, but strong reason to believe that the alleged imbecile had not made use, like other boys of his age, of the advantages which he had enjoyed. He had been sent to Eton, but had derived little benefit from his connection with that great public school. It seems to have been admitted that as a boy he was wholly unlike other boys, and when he attained his majority, in August, 1861, his conduct was extravagant, wild, and wholly inconsistent with his social position. At the same time he was not entirely deficient in business matters; for it was proved that his uncle, one of the petitioners, had shortly before negotiated with him for the sale of a piece of land of the value of 1000*l.*, thereby admitting his capacity to transact business. The evidence received on this occasion was allowed to extend to the whole of his life, and it may be observed that in cases of alleged imbecility it is not possible, without doing injustice, to prevent the reception of evidence from a long date.

The result of this inquiry was that the jury, by a majority of fifteen to eight, returned the following verdict—"That Mr. Windham is of sound mind and capable of taking care of himself and his affairs." After the verdict had been returned pronouncing him sane and competent, he was guilty of many extravagant acts, exhausted a splendid fortune and became a bankrupt; showing that, whatever legal soundness of mind he might possess in the opinion of two-thirds of the jury, he practically did not evince that capacity which they declared him to possess of taking care of himself or his affairs!

A large section of the public joined in the view prominently put forward at the inquiry by his counsel, Sir Hugh Cairns, that this unfortunate young man had been made the victim of a charge the most cruel, unjust, and unjustifiable! Insanity, it was urged, in the ordinary acceptation of the word, did not exist in his case. There were no illusions, hallucinations, or delusions; but as these are never met with in the form of unsoundness imputed to Mr. Windham, namely imbecility, their absence proved nothing for or against

the existence of imbecility or weakness of mind. But what test is there for imbecility except conduct and conversation? There was no incoherency of language, but there was strong evidence of habits such as we do not meet with among men of really reasonable minds: but opinions were divided on the question, whether these indicated unsoundness of mind, or a mixture of eccentricity and moral depravity from deficient education. A majority of the jury took the latter view; and Lord Chelmsford, in commenting upon this verdict in the House of Lords (March, 1862) said:—"The law as laid down by Lord Lyndhurst applied to cases short of insanity, but they must be cases of unsoundness of mind: and mere extravagance or follies, which indicated imbecility, would not be sufficient unless the imbecility amounted to unsoundness of mind." The legal test of the existence of this state of mind, we are told by high authority, is "conduct." A lawyer means by madness "conduct of a certain character," while a physician means by it "a certain disease one of the effects of which is to produce such conduct." ("Crim. Law of England," by Fitzjames Stephen, p. 87.) The whole evidence against Mr. Windham bore upon conduct, and from the verdict we learn what sort of conduct does *not* constitute madness in a legal sense. The marrying of a woman of disreputable character—the squandering upon her of 14,000*l.* in jewelry, and settling upon her, without any reasonable grounds, 800*l.* per annum, with other extravagant acts of a similar kind, do not constitute "conduct of a certain character" sufficient to render a man non compos mentis in the eye of the law; but if these acts evince soundness of mind and a competency to manage affairs, what are the acts which indicate unsoundness or incompetency? On the other hand, we are told that the physician looks to the existence of a certain disease: but a physician can know nothing about the existence of disease of the brain during life in any case of imbecility, except in so far as its effects may be manifested by conduct. We therefore come round to the legal test of "conduct," which in Mr. Windham's case was considered to be quite consistent with the provident management of a large estate and a splendid fortune. That the legal test was here a failure in affording protection from wastefulness is proved by the result—the loss of the whole property from reckless extravagance!

In reference to this and other cases, "doctors" have been strongly condemned for not agreeing among themselves on the subject of insanity, and it has been suggested that persons of common sense and a practical knowledge of the world are more qualified to judge of soundness and unsoundness than medical men. In the *Windham* case, which elicited these censures, the jury, consisting of twenty-three men with a "practical knowledge of the world," differed from each other even more than the doctors—the numbers being fifteen in favor of a verdict of soundness and eight in favor of unsoundness of mind. The minority felt so strongly on the error of the verdict of the majority, that they specially signified their dissent from it to the Lords Justices who had directed the inquiry. This great legal question was therefore simply decided arithmetically by relative numbers, 15 to 8, as in the election of a Member of Parliament!

The chief objections to the evidence of medical experts on these occasions would be removed, if they were nominated by the Lord Chancellor or the Lords Justices, and if they were thus made as independent as special jurors. So strong was the public feeling in reference to medical evidence after this inquiry, that the Lord Chancellor actually proposed to exclude it altogether, in commissions of lunacy, except in so far as it was based on *facts* within the personal knowledge of the witnesses. It was suggested that the general scientific conclusions of experts should *not* be received as evidence. This proposition, which would have been most injurious to the interests of the insane as well as the sane, did not meet with a favorable reception.

A Commission of Lunacy may be superseded, but the evidence must then be as strongly in favor of sanity as it was before in favor of insanity. The onus of proof is then thrown on the person who has been found lunatic.

[The Constitution of Pennsylvania vests in the Supreme Court and the several courts of Common Pleas, the care of the persons and estates of those who are *non compos mentis*. In practice, however, original jurisdiction in these cases is nearly, if not exclusively, confined to the courts of Common Pleas.

The act of 13th June, 1836, provides the manner of proceeding, in cases of interdiction, by the issuing of a commission in the nature of a writ *de lunatico inquirendo*, to inquire into the lunacy or habitual drunkenness of any person living within this commonwealth or having real or personal estate therein. The commission is issued upon the application in writing, accompanied by affidavits, of a relation by blood or marriage, of the person named, or of a person interested in his estate: or (by act of 15th April, 1851), where there are no relatives, upon the application of any disinterested person of the same township, ward or borough, in which the alleged lunatic or habitual drunkard resides. There may be one or three commissioners, who are to "diligently inquire, by the oaths or affidavits of six good and lawful men of the county," whether the party is a lunatic, &c., how long he has been so, whether he has lucid intervals, what property he owns, and its value, &c. &c.; and "the inquisition so to be made" to return to the court at a time specified in the commission. The act (§ 67) defines the word "lunatic" as meaning "any person of unsound mind, whether he may have been such from his nativity, as idiots, or have become such from any cause whatever." By § 63, it is provided that upon petition of the party setting forth that he is restored to a sound state of mind, the court shall take proof of the facts, and if satisfied of the truth of the allegations of the petition, shall suspend, or as the court shall decide, altogether supersede and determine the commission, the inquisition, appointment of a committee, and all subsequent proceedings.

Though, in the main, governed by the principles applicable to similar proceedings in the Court of Chancery, the provisions of this act are much simpler and less expensive.

Where there is a traverse of the inquisition, the question is not simply whether unsoundness of mind exists, but whether it exists to such an extent as to disqualify the traverser from conducting himself with personal safety to himself or others, or from managing and disposing of his own affairs and discharging his relative duties. *McElroy's* case, 6 W. & S. 451. The great object of the proceedings under a commission of lunacy is to afford security and protection. The fact that, as yet, the lunatic may not have squandered his property is no security that he may not do it hereafter. The act is precautionary in its design, and hence a disposition of mind or body, which might lead to the wasting of an estate is sufficient to justify the enforcement of its provisions. *Ib.; Sill* v. *McKnight*, 7 W. & S. 245; *Ludwick* v. *Commonwealth*, 6 Harris, 175.

The same act (13th June, 1836) §§ 58-62, introduces the provisions of 39 and 40, Geo. 3, c. 94, relative to the subject of *criminal* proceedings against persons who were lunatics at the time of the commission of the offence, or who have become so since. These sections have been re-enacted by the new criminal code of 31st March, 1860. They provide that when a jury shall acquit any person charged with crime or misdemeanor, on the ground of insanity at the time of the commission of the offence, or when he shall be found to be a lunatic upon arraignment, such jury shall find specially the fact of insanity and declare in their verdict that this was the ground of acquittal. The court may then order him to be kept in strict custody, so long as he shall remain of unsound mind, or he may be delivered to his friends or to the guardians of the poor upon the entry of security that he shall be restrained by seclusion or otherwise from the commission of any offence. When the prosecutor fails to appear, and the prisoner would be otherwise discharged, if it appear to the court upon affidavit of any credible person that the defendant is insane, the court are required to order the district attorney to send a written allegation of such insanity to the grand jury, who shall make presentment of their finding to the court, and thereupon a jury shall be impanelled to try the insanity of such person.

Similar statutory provisions exist in Massachusetts and in Minnesota, and perhaps in other States of the Union. See *Bonfanti* v. *State*, 2 Min. 123.

The criminal courts of Pennsylvania may also upon petition inquire into the insanity of, and commit to the State Lunatic Asylum persons unsafe to be at large, and those who are suffering unnecessary hardship or duress; Act of 14th April, 1845. This application may be made by a married woman. *Shenango* v. *Wayne*, 10 Casey, 184. See also Brightly's Purdon's Dig. Tit. "State Lunatic Asylum." Id. Tit. "Lunatics and Habitual Drunkards." The act of 1845 also gives the officers of the poor authority to send insane paupers to the State Asylum.

These acts of course do not prevent the sending of persons to asylums by their friends, without the intervention of the courts. All such cases may, however, be brought before the courts upon *habeas corpus*. See Dr. Hartshorne's note, ante, p. 653. See also the case of *Hinchman* v. *Ritchie*, Bright. R. 144.—P.]

CHAPTER LXII.

CIVIL RESPONSIBILITY.—TESTAMENTARY CAPACITY.—WILLS MADE BY THE INSANE.—TEST OF CAPACITY.—EVIDENCE OF DELUSION.—ECCENTRICITY.

Responsibility in Civil Cases. Insanity as an Impediment to Marriage.—Insanity is deemed in law to be a civil impediment to marriage, because it is considered that there cannot be that rational consent which is necessary to the validity of a contract. The marriage of a lunatic is therefore called a nullity, and is void *ab initio.* All that the law requires is, that there should be good proof of insanity at or about the time of the contract. If this be offered, and it be alleged that the contract was entered into during a lucid interval, then the party who would benefit by the allegation must prove it. The suitableness of the marriage, as well as the conduct of the party during or after its performance, will also be considered by the court. In *Turner* v. *Myers*, a lunatic who had recovered from his lunacy instituted a suit to set aside a marriage which he had contracted while in that state! The marriage was declared void. ("Med. Gaz.," vol. viii. p. 481.) The case of *Baldry* v. *Ellis* (Norwich Summer Ass., 1851) will be found of interest in relation to the matrimonial engagements of alleged lunatics.

[But though marriage with an idiot or lunatic be absolutely void, and no sentence of avoidance be absolutely necessary (*Browning* v. *Peane*, 2 Phillimore, 19, 69), yet, as well for the sake of the good order of society, as for the peace of mind of all persons concerned, it is expedient that the nullity of the marriage should be ascertained and declared by the decree of a court of competent jurisdiction. 2 Kent, Com. 76.—P.]

In *Read* v. *Legard* (Court of Exchequer, May 30, 1851), a question arose whether a lunatic was responsible for necessaries supplied to the wife. The articles supplied were for the sole use of the wife, the husband being a confirmed lunatic and the inmate of an asylum. The court held that the fact of a husband being from the visitation of God unable to manage his affairs, did not absolve him from the obligation which he contracted when he married, to provide necessaries for the support of his wife. He was then of sane mind, and although he had subsequently become insane, that obligation was not revocable under the circumstances. (See also a report of the case of *Seaton* v. *Adcock*, "Journ. Psychol. Med.", 1851, p. 297.)

The validity of civil contracts entered into by lunatics will depend mainly on the circumstances which accompany the act. If there be nothing unreasonable in the conduct of the lunatic, and the party with whom he contracts has no knowledge or suspicion of the

insanity, then the contract will be binding on the lunatic and his representatives. It was so held in *Monckton* v. *Cameraux* (Exchequer, June, 1848). This was an action by the administrator of a deceased person, to recover from the defendant, as secretary of an insurance office, the sum paid by him as the consideration for two annuities, the foundation of the action being, that at the time of the arrangement in question the deceased was not in a sound state of mind. At the trial before the Chief Baron it appeared that the negotiation had been conducted by the deceased with apparent prudence, sanity, and judgment, and that the arrangement entered into by him with the office was just such as any ordinary prudent person would have been expected to make with a view to his own interest. The deceased, who died very soon after the business had been arranged, was, both before and after, in an unsound state of mind. Under these circumstances, this action was brought by his representatives, and a verdict recovered by them, subject to the opinion of the court on their right to recover as on the entire failure of consideration. The Chief Baron, in giving judgment in favor of the defendant, said it was sufficient for the purpose of this case to lay it down as a general rule, that when a person of apparently sound intellect enters into a contract such as any other ordinary person would enter into with others who act *bonâ fide*, and the parties cannot be restored to their former condition, it is no ground for setting aside the contract, that one of them was at the time *non compos mentis*. On appeal to the Exchequer Chamber this judgment was affirmed in May, 1849. (See also the case of *Staniland* v. *Willett*, Vice-Chancellor's Court, Nov. 1848.) In the case of *Donat* v. *Haniquet* (Guildhall Sittings, 1854), on an action to recover a sum of money, in which the defence was that the defendant was of unsound mind at the time of the contract, Crompton, J., held that unless it was shown that the plaintiff had taken advantage of defendant's unsoundness of mind he would be entitled to recover the amount claimed.

[In the case of *Leach* v. *Marsh*, "American Law Reg." Vol. 2 (N. S.) p. 22, the Supreme Court of Maine decided that a judgment recovered on default, against a person admitted to have been *non compos mentis* at the time of the proceedings in the case, will be reversed on a writ of error brought by his administrators after his decease. The following is the note of one of the editors (Hon. I. F. Redfield) of the Register: "It seems well settled that contracts by lunatics and persons of unsound mind, as a general rule, are not binding. *Lincoln* v. *Buckmaster*, 32 Vt. R. 652, and numerous cases there cited. But there are many exceptions to this rule.

1. Where merchants, apparently sane, have purchased goods in the ordinary course of their business, and have disposed of them, in whole or in part, so that the goods cannot be restored to the seller, there is no question of the general liability upon such contracts, notwithstanding it should appear that the purchaser was in fact insane at the time of the purchase. *Braes* v. *Lee*, 10 Barr 56; *Molton* v. *Cameraux*, 2 Exch. R. 502; S. C. 4 Id. 17. And the same rule extends to all cases where the seller has parted with his property in good faith, and it is not in the power of the lunatic to restore it.

Even courts of equity refuse to interpose to set aside the contracts of lunatics, unless the parties can be restored to their former condition, or the sane party has taken some unconscionable advantage in the bargain. *Neil* v. *Morley*, 9 Vesey 478. The parties are left to their legal rights. *Sageron* v. *Leaky*, 2 Atk. R. 412. The same rule extends to contracts made with infants. *Farr* v. *Sumner*, 12 Vt. R. 28; *Taft* v. *Pike*, 14 Id. 405; *Weed* v. *Beebe*, 21 Id. 495. But the recovery in both cases should be upon the *quantum meruit*, rather than upon the contract.

2. Contracts for necessaries for the lunatic or his family are binding to the same extent, and much upon the same principles as similar contracts by infants. *Thompson* v. *Leach*, 3 Mod. R. 310; *Seaver* v. *Phelps*, 11 Pick. R. 304, 306. Some of the American cases go the length of holding, that no recovery can be had against a lunatic, upon a contract express or implied, unless for necessaries. *Seaver* v. *Phelps*, supra; *Fitzgerald* v. *Reed*, 9 Sm. and Marshall; *Pearl* v. *McDowell*, 3 J. J. Marsh. 658; 2 Greenl. Ev. § 369; *Lincoln* v. *Buckmaster*, supra.

The rule in regard to instituting legal proceedings against a lunatic is much the same as that which obtains in the case of infants; and there would seem to be more reason for a strict enforcement of it in the former case than in the latter, since infants, long before they get out of their nonage, are entirely competent to select counsel, and conduct the defence of a suit.

This subject is very elaborately discussed by *Woodbury, J.*, in *Lany* v. *Whidden*, 2 N. H. R. 435, where the authorities, prior to that date (1822), will be found very extensively quoted, and the subject very learnedly discussed, and satisfactorily disposed of by the court. It is here said the guardian must be notified, in all cases, or the judgment will be erroneous.

The same rule has been adopted in many of the American States. *Aldridge* v. *Montgomery*, 9 Ind. R. 302; *Snowden* v. *Danbury*, 11 Penna. St. R. 522; 2 Barb. Ch. R. 387; *Wright's Ap.* 8 Barr. 57; 6 B. Mon. R. 239. But if one who is a lunatic be arrested or imprisoned in a civil suit, he is not entitled to his release on that account. A guardian *ad litem* may be appointed, and the suit proceed. *Bush* v. *Pettibone*, 4 Comst. R. 300; *Aldrich* v. *Williams*, 12 Vt. R. 413.

There seems to be no good ground to question the decision in the principal case. The same rule has long been established in regard to judgments rendered against infants, without the appointment of guardians *ad litem*. 2 Saund. R. 212, N. H.; *Castlemain* v. *Moody*, 4 B. & Ad. 90. See also *Mason* v. *Dennison*, 15 Wendell, 64; *Wead* v. *Marsh*, 14 Vt. R. 77; *Crockett* v. *Drew*, 5 Gray 399.

In the case of *Van Brunt* v. *Taylor*, 3 Philadelphia R. 123, it was held by the District Court, that where an insane partner contracted loans, the firm was liable, whether the money was misappropriated by him or not.

By act of 13th June, 1836, § 44, no person, found by inquisition to be a lunatic, can, in Pennsylvania, be arrested or imprisoned on mesne or final process in any civil action, so long as he shall remain of unsound mind.—P.]

Testamentary Capacity. Wills made by the Insane.—Questions involving the testamentary capacity of persons are of very frequent occurrence, and medical evidence is commonly required for their solution. When property is bequeathed by a testator out of the usual order of succession, it may be alleged by the relatives that he was wholly incompetent to understand the nature of the deed—either from actual insanity, the imbecility of age, or that natural failing of the mind which is so often observed to occur from disease or on the approach of death. Bodily disease or incapacity does not affect the validity of a will, unless the mind be directly or indirectly disturbed by it. Some time since a case occurred in France, in which a will was contested on the ground that the testator when he executed it, was laboring under hemiplegia. The opinion of Esquirol was required, and he said that hemiplegia might undoubtedly affect the brain—a fact clearly indicated by the sight, hearing, and other senses becoming weakened; yet this, in his opinion, did not necessarily indicate an impairment of the intellectual powers. ("Ann. d'Hyg." 1832, vol. 1, p. 203.) A man's mind, under these circumstances, may not be so strong as in robust health, but still it may retain a disposing power. In *Harwood* v. *Baker*, decided by the Privy Council in 1841, a will was pronounced to be invalid owing to the general state of bodily disease in which the testator was at the time of making it. It appears that he was laboring under erysipelas and fever, and these diseases had produced a degree of drowsiness and stupor which rendered him incompetent to the act. In the case of *Day* (June, 1838), epilepsy was alleged to have affected the mind; and in the case of *Blewett* (March, 1833), paralysis was adduced as a ground of incompetency. In all cases of this kind, the law looks exclusively to the actual *effect* of the bodily disease upon the *mind;* and this is commonly a question to be determined by a jury from the testimony of those who have attended the deceased, as well as from the evidence of medical experts.

Test of Capacity.—A person is considered to be of a sane and disposing mind who knows the nature of the act which he is performing, and is fully aware of its consequences. From some decisions that have been made, it would appear that a state of mind for which a party might be placed under interdiction or deprived of the management of his affairs, would not render him incompetent to the making of a will. The validity of the will of a lunatic was once allowed, although made while he was actually confined in an asylum, because the act was rational, and it was such as the lunatic had announced his intention of making, some years prior to the attack of insanity. (*Coghlan's* case: see *Re Garden*, "Law Times," July 6, 1844, p. 258; also the case of *Cartwright*, Mayo on "Medical Testimony," p. 44.) In *Nichols* and *Freeman* v. *Binns* (Probate Court, Aug. 1858), the question was whether the will of a Mr. Parkinson, made in a lunatic asylum near Norwich, was executed during a lucid interval. The jury found a verdict in favor of the will. The insanity of a person when not already found insane under a commission, must not in these cases rest upon presumption or probability, but be established by positive proof. The act of suicide is often hastily

assumed to be evidence of insanity; but it would not be allowed as a proof of this state, even when a testator had destroyed himself shortly after the execution of his will. A case has been decided where the testator committed suicide three days after having given instructions for his will; but the act was not admitted as a proof or even as a presumption of insanity at the time, and the will was pronounced to be valid. In another case, *Edwards* v. *Edwards* (Prerog. Court, Feb. 1854), it was proved that the testator had committed suicide three days after the execution of his will, and there was some evidence of eccentric habits almost amounting to insanity; but the will was pronounced to be valid. Suicide is not deemed in law to be a proof of the existence of insanity.

Delusion in the Deed.—The validity of deeds executed by persons affected with monomania is often a subject of dispute. The practice of the law indicates that the mere existence of a delusion in the mind of a person does not necessarily vitiate a deed, unless the delusion form the groundwork of it, or unless the most decisive evidence be given that at the time of executing the deed, the testator's mind was influenced by it. Strong evidence is often derivable from the act itself, especially when a testator has drawn it up of his own accord. In the case of *Barton* (July, 1840) the Ecclesiastical Court was chiefly guided in its decision by the nature of the instrument. The testator, it appeared, labored under the extraordinary delusion that he could dispose of his own property to himself, and make himself his own legatee and executor! This he had accordingly done. The instrument was pronounced to be invalid. But a will may be manifestly unjust to the surviving relatives of a testator, and it may display some of the extraordinary opinions of the individual: yet it will not necessarily be void, unless the testamentary dispositions clearly indicate that they have been formed under the influence of *a delusion*. Some injustice may possibly be done by the rigorous adoption of this principle, since delusion may certainly enter into a man's act, whether civil or criminal, and it may not be always in our power to discover it; but, after all, this is perhaps the most equitable mode of construing the last wishes of the dead. According to Sir John Nichol, it is not necessary in civil suits to connect the morbid imagination with the act itself; if the mind is proved to be unsound the act is void. In *Roberts* v. *Kerslake* (Warwick Aut. Assizes, 1854), Lord Wensleydale held that to vitiate a will, if it be a case of delirium, the act must be traced to delirious delusion, but if it be a case of lunacy it need not be traced to a delusion.

Eccentricity in Wills.—The evidence in these cases sometimes amounts to proof of eccentricity only on the part of the testator, or in the deed itself; but a clear distinction must be here drawn. The will of an eccentric man is such as might always have been expected from him: the will of one laboring under insanity (delusion) is different from that which he would have made in an unaffected state—the instrument is wholly different from what it would once have been. It has been justly observed, that the insane are eccentric in their ideas, their language, or their conduct: but the merely

eccentric have but a voluntary resemblance to the insane. (Jamieson's Lectures, "Med. Gaz." vol. 46, p. 180.) Wills are sometimes contested more on the ground of eccentricity than of insane delusion; but if eccentricity only be proved, a court will not interfere. In the case of *Morgan* v. *Boys* (1838), it was proved that the testator, by his will, had left a large fortune to his housekeeper. The will was disputed on the ground that it bore intrinsic evidence of the deceased not having been in a sane state of mind at the time of making it. After having bequeathed his property to a stranger, the testator directed that his executors should "cause some parts of his bowels to be converted into fiddle-strings—that others should be sublimed into smelling-salts, and that the remainder of his body should be vitrified into lenses for optical purposes!" He further added, in a letter attached to his will—"The world may think this to be done in a spirit of singularity or whim; but I have a moral aversion to funeral pomp, and I wish my body to be converted into purposes useful to mankind." Sir H. Jenner, in giving judgment, held that insanity was not proved: the facts merely amounted to *eccentricity*, and on this ground he pronounced for the validity of the will. It was proved that the deceased had conducted his affairs with great shrewdness and ability; that he not only did not labor under imbecility, but that he had been always treated during life as a person of indisputable capacity by those with whom he had to deal. The best rule to guide the court, the Judge remarked, was the conduct of persons towards the deceased; and the acts of his relatives evinced no distrust of his sanity or capacity while he was living. The deceased had always been noted for his eccentric habits, and he had actually consulted a physician upon the possibility of his body being devoted to chemical experiments after death. In the case of *Mudway* v. *Croft* (Prerog. Court, Aug. 1843), a will contested on the ground of insanity but defended on the plea of eccentricity, Sir H. J. Fust said—"It is the prolonged departure, without an adequate external cause, from the state of feeling and modes of thinking usual to the individual when in health, that is the true feature of disorder of the mind."

The following case was the subject of litigation in Paris in 1864. A wealthy Portuguese gentleman named *Machado* died in 1861, having made a will with seventy-one codicils attached to it, some of them containing provisions impossible of execution. It was disputed on the ground of the insanity of the testator. One of the codicils was to this effect: "I leave for the Athenæum of Paris 10,000 francs, the interest of which at 5 per cent. will be 500 francs. Half of this interest to be paid to a Professor of Natural History, who shall lecture on the colors and patterns of dresses, and on the characters of animals." Again: "My funeral shall take place at 3 P. M., the hour at which the rooks of the Louvre come home to dinner." The testator was especially fond of birds: he desired that many stuffed specimens should be placed in his coffin; that his servant should carry to the ceremony "one of my favorite birds in his cage;" and that certain birds should be let loose on the day of his funeral. The testator had during his life erected his own tomb, on

which were engraved a sun, a bird, an ox, and a dog, an egg "proper" surmounting them; beneath was inscribed, "Here reposes the author of the 'Theory of Likeness.'" These and other facts of a similar kind were relied upon as proofs of insanity, but it was decided that the deceased was only vain, not insane, and therefore he had a right to will away his property as he pleased. It was proved in favor of his sanity, that in spite of these crotchets he had while living managed his affairs with all the caution of a sane person.

Wills in Senile Dementia.—Wills made in incipient dementia arising from extreme age (senile imbecility) are sometimes disputed, either on the ground of mental deficiency, or of the testator, owing to weakness of mind, having been subjected to control and influence on the part of interested persons. If a medical man be present when a will is executed, he may easily satisfy himself of the state of mind of the testator, by requiring him to repeat from memory the mode in which he has disposed of the bulk of his property. A medical man has sometimes placed himself in a serious position by becoming a witness to a will without first assuring himself of the actual mental condition of the person making it (case of the *Duchess of Manchester*, 1854). It would always be a good ground of justification, if, at the request of the witness, the testator had been made to repeat substantially the leading provisions of his will from memory. If a dying or sick person cannot do this without prompting or suggestion, there is reason to believe that he has not a sane and disposing mind. It has been observed on some occasions, when the mind has been weakened by disease or infirmity from age, that it has suddenly cleared up before death, and the person has unexpectedly shown a disposing capacity. ("Ann. d'Hyg." 1831, p. 360.) In *Durnell* v. *Corfield* (Prerog. Court, July, 1844), a case in which an old man of weakened capacity had made a will in favor of his medical attendant, Dr. Lushington held that to render it valid there must be the clearest proof not only of the *factum* of the instrument, but of the testator's knowledge of its contents. [In *Greenfield's Estate*, 2 Harris (Penna.) 489, where the decedent during her lifetime had at the age of eighty-six or eighty-seven, executed a deed to persons who were to hold in trust for her for life, and after her death, to administer the property in the manner therein set forth, it was held, that a provision in the deed in favor of the counsel who drew or advised it, for his services to be performed as trustee, with the further provision that such trustee might resign, without forfeiting his compensation, is void, at least unless it be proved that the grantor knew of the particular provisions, and without influence from those interested, assented to them. If a *doubt exists* in this respect, the provision for compensation is invalid; and the provision in favor of the other trustees who acted in the arrangement of the matter, through the counsel, or in connection with him, is also invalid. The trustees may, however, be decreed compensation by the proper tribunal.—P.] ("Law Times," July 27, 1844.) In *West* v. *Sylvester* (Nov. 1864), Sir J. Wilde, in pronouncing judgment against a will propounded as that of the deceased, an aged lady, said:—"At the time she executed the will of October, 1863,

although for many purposes she might be said to be in her right senses, she was nevertheless suffering from that failure and decrepitude of memory which prevented her from having present to her mind the proper objects of her bounty, and selecting those whom she wished to partake of it."

Wills made by persons whose capacity during life has never been doubted, while lying at the point of death, or, as it is termed, *in extremis*, are justly regarded with suspicion, and may be set aside according to the medical circumstances proved. Many diseases, especially those which affect the brain or nervous system directly or indirectly, are likely to produce a dulness or confusion of intellect, under which a proper disposing power is lost. Delirium sometimes precedes death, in which case a will executed by a dying person would be at once pronounced invalid. [By a statute law of Pennsylvania (Act of 26 April, 1855), bequests to public institutions are invalid, without regard to the testamentary capacity of the party making the bequest, if made within thirty days of death of testator.—H.]

In examining the capacity of a person under these circumstances, we should avoid putting leading questions—namely, those which suggest the answers "yes" or "no." Thus, a dying man may hear a document read over, and affirm, in answer to such a question, that it is in accordance with his wishes, but without understanding its purport. This is not satisfactory evidence of his having a disposing mind: we should see that he is able to dictate the provisions of the document, and to repeat them substantially from memory when required. If he do this accurately, there can be no doubt of his possessing complete testamentary capacity. But it may be objected that many dying men cannot be supposed capable of such an exertion of memory: the answer is then very simple; it is better that the person should die without a will, and his property be distributed according to the law of intestacy, than that, through any failing of the mind, he should unknowingly cut off the rights of those who have the strongest claims upon him.

Restriction of Medical Opinions.—In an important case (*Bainbrigge* v. *Bainbrigge*, Oxford Summer Ass. 1850), tried before Lord Campbell, in which the testamentary capacity of a testator was disputed, it was held that a medical witness, although conversant with cases of insanity, cannot be asked his opinion as to the insanity of a testator founded upon the evidence given at the trial in his hearing. (4 Cox, "Criminal Cases," 454: see also on this subject "Med. Gaz." vol. 46, p. 240.) In the case of the *Duchess of Manchester*, however, the opinions of Drs. Sutherland, Mayo, and Conolly, on the competency of the testatrix, were received by the court, although based upon the evidence given at the trial.

[In general every man is presumed to be sane until the contrary is proved; and hence it has been held, that the burden of proving unsoundness or imbecility of mind in a testator, is upon the party impeaching the validity of a will for that cause. Especially, it is

said, is this the case with reference to wills attested by subscribing witnesses, because it is the duty of the latter "to be satisfied of the testator's sanity before they subscribe the instrument" (*Werstler* v. *Custer*, 10 Wright (Penna.) 502); and under the maxim "*omnia præsumuntur rite et solenniter acta donec probetur in contrarium*," it is to be presumed that they have not neglected this duty. Such is the rule in Pennsylvania, and in many of the other states of the Union; *Werstler* v. *Custer*, supra; *Grabill* v. *Barr*, 5 Barr, 441; *Barber* v. *McFerran*, 2 Casey, 214; *Rees* v. *Stille*, 2 Wright, 138; *Jackson* v. *Vandeusen*, 5 Johns. 144; *Dean* v. *Dean*, 1 Williams (Vt.) 746; *Trumbull* v. *Gibbons*, 2 New Jersey, 117; *Hawkins* v. *Grimes*, 13 B. Monroe (Ky.) 257; *Perkins* v. *Perkins*, 39 New Hamp. 163; *Stubbs* v. *Houston*, 33 Ala. 555; *McDaniel* v. *Crosby*, 19 Ark. 533; *Chandler* v. *Ferris*, 1 Harrington (Del.) 454.

But on the other hand, in *Harris* v. *Ingledew*, 3 P. Wms. 93, Sir Joseph Jekyll, M. R. said, "It must be observed that the proof of a *will* is attended with more solemnity than that of a deed: the former being supposed to be made when the testator is *in extremis:* and therefore in equity, it is *necessary to prove the sanity*, which is all presumed in the case of the latter." See also *Barry* v. *Butlin*, 1 Curtis, 637; *Sutton* v. *Sadler*, Com. B. 10 Law Rep. N. S. 703; and this is said to be more particularly the rule where the statute relating to wills contains the provision (which indeed it generally does) that the testator must be of "sound mind." *Cilley* v. *Cilley*, 34 Maine, 162; *Comstock* v. *Hadlyne*, 8 Conn. 261; *Crowningshield* v. *Crowningshield*, 2 Gray, 524; *Brooks* v. *Barrett*, 7 Pick. 98, 99.

The subject of testamentary capacity is very fully considered in Jarman on Wills, Perkins's Ed. vol. 1, p. 51, et seq.; and in Williams on Executors, vol. 1, p. 11, et seq. To the authorities there cited, may be added the recent cases of *Vanpelt* v. *Vanpelt*, 30 Barb. (N. Y.) 134; *Dunham's* Ap. 27 Conn. 192; *Stubbs* v. *Houston*, 33 Ala. 555; *Rees* v. *Stille*, 2 Wright, 138; *Aiman* v. *Stout*, 6 ib. 114; *Eckert* v. *Henry*, 7 ib. 46; *Daniel* v. *Daniel*, 3 ib. 191; *Werstler* v. *Custer*, 10 ib. 502. In the case of *Vanpelt* v. *Vanpelt*, it was held that though a testator's capacity was slender, yet, if the evidence is sufficient to show that he fully understood, and intended to make the disposition which he has made, the will must stand, however unnatural and unjust may be its provisions. And in *Stubbs* v. *Houston*, it was held, that though a condition somewhat short of a total deprivation of reason will destroy testamentary capacity, yet that a person not competent to transact the ordinary business of life, may make a will. The existence of insane delusions was held in *Dunham's* Ap. not to incapacitate, if the testator has mind enough to know and appreciate his relations to the natural objects of his bounty, and the character and effect of the dispositions of his will. In Pennsylvania, mere weakness of intellect, however great, will not take away testamentary capacity, provided the testator at the time of executing his will, has a full and intelligent consciousness of the nature and effect of the act he is engaged in, a knowledge of the property he possesses, an understanding of the disposition he wishes to make, and of the persons and objects he desires to participate in his bounty.

It is not necessary, however, that he should collect all these in one review. *Daniels* v. *Daniels*, *Rees* v. *Stille*, &c.

It is the duty of every one called upon to attest a will, to first satisfy himself of the competency of the testator. If he has doubts, he should refuse to sign his name. Courts have spoken in the severest terms of persons who having become witnesses to wills, have afterwards come forward to testify as to the insanity of the testator. The act of attestation solemnly testifies the testator's competency; so that the person who, believing that this does not exist, nevertheless signs his name as a witness, becomes an instrument in what he himself considers a fraud. Should such witness afterwards attempt to impeach his own act, and to prove that the testator did not know what he was doing when he made what purported to be his will, though the evidence would not be positively inadmissible, very little credit is to be attached to it. *Rees* v. *Stille*, 2 Wright, 140. The older cases go so far as to say that the testimony should not be received at all, upon the maxim of the civil law, *nemo allegans suam turpitudinem est audiendus;* and in *Lowe* v. *Jolliffe* (1 W. Blackstone's Rep. 365), where, notwithstanding the testimony of the subscribing witnesses against it, the will was supported, Lord MANSFIELD sent for those witnesses in order to have them committed for perjury: but, as the reporter states, they very prudently "had withdrawn themselves." It is now settled, however, that the question is one not for the court but the jury, who are to receive the evidence, but with the most scrupulous jealousy (*Booth* v. *Blundell*, 19 Ves. 504); bearing in mind, as declared by WOODWARD, J., in *Wertsler* v. *Custer*, 10 Wright (Penna.) 502, that "no honest man will subscribe as a witness to a will or other instrument, executed by an insane man, an imbecile, or an idiot."—P.]

CHAPTER LXIII.

THE PLEA OR DEFENCE OF INSANITY.—CIRCUMSTANCES UNDER WHICH IT IS ADMISSIBLE.—HOMICIDAL INSANITY.—MORAL INSANITY.—SYMPTOMS.—LEGAL TESTS.—MEDICAL TESTS.—DELUSION.—TESTS OF IRRESPONSIBILITY.—MEDICAL EVIDENCE.

The Plea or Defence of Insanity.—Responsibility here signifies nothing more than liability to punishment for crime, and a criminal act implies the existence of intention, will, and malice. (Stephen.) When insanity has reached a certain stage or degree, an act may be perpetrated without malice; and in this sense the person is considered to be irresponsible in law. This is a question of *fact*, to be determined by a jury from the whole evidence set before them; and the proof rests with those who make the allegation that the act in question, whether murder or arson, was not done wilfully and maliciously. "The sanity of a man's conduct," observes Mr. Ste-

phen, "involves the presence of intention and will on all ordinary occasions; and if the act is one of those which the law forbids, it is presumed to be malicious and wicked." ("Criminal Law of England," p. 89.) This subject is of considerable importance in a medico-legal view; for should a plea of insanity be improperly admitted in any criminal case, then punishment is made to fall unequally on offenders; and if, on the other hand, it be improperly rejected, punishment is administered with undue severity. The rule of law is that no man is responsible like a sane person for any act committed by him while in a state of insanity. The plea may be raised for the smallest offence up to the highest crime—murder; but it is rarely made a defence in smaller offences, because the close confinement to which an accused person, if found insane, would necessarily be subjected, would often be a heavier punishment than that which the law actually prescribes for the offence which he may have committed. In a case of felonious assault, it was urged by counsel in defence that the prisoner was insane; but the evidence on this point was not by any means conclusive—when it was intimated by the court that, if this plea were admitted, the party would probably undergo a much longer imprisonment than if on conviction he received the legal punishment for the offence! (The *Queen* v. *Reynolds*, Bodmin Aut. Ass. 1843.) The judge is reported to have said that there was no proof of insanity. If the prisoner was pronounced insane, he might be imprisoned for life, and therefore he did not think *that* finding would benefit him! A verdict of guilty was returned, and the man was sentenced to eighteen months' imprisonment. This case shows that a defence of this kind may be sometimes indiscreetly put forward. Such a mode of dealing with the plea of insanity, *i. e.* of making it a question of expediency dependent on the amount of punishment for the offence, must be pronounced as unsafe and indefensible. Murder, incendiarism, and theft are the crimes for which the plea of insanity is commonly raised; and it has been generally confined in this country to those cases in which persons have been charged with murder or attempts at murder.

Murder may be perpetrated by one who is obviously laboring under delirium or violent mania, or by an idiot or imbecile. Apart from the circumstances connected with the criminal act, there may be evidence of such a disordered state of mind in the person, as at once to exonerate him from that amount of responsibility which is exacted from one who is sane. The appearance of the accused, or the testimony of a medical man, renders it unnecessary to go into the evidence, and a verdict is returned accordingly. The cases of difficulty are those in which insanity presents itself in a doubtful aspect, as in mania or imbecility. The mental disorder may be of so slight a nature as not legally to justify an acquittal for murder. In order to exculpate a person it must be proved that insanity in a certain degree existed at the time of the perpetration of the act. Whether the prisoner is or is not insane when placed on his trial is immaterial in reference to the question of responsibility. In the case of *Murray* (tried before the High Court of Judiciary, Edin-

burgh, Nov. 1858), it was proved that the accused recovered his sanity eight hours after he had killed the deceased; but he was acquitted on the ground of insanity at the time of committing the act.

The proved existence of mental disease does not necessarily exempt a person from criminal responsibility. Many a man whose mind is in an unsound state knows perfectly well whether he is doing wrong; and so long as he knows *that*, he is considered to be subject to the criminal law. The existence of a morbid delusion cannot always be allowed to screen a criminal from the consequences of his own acts, while on the other hand there are instances in which a plea of insanity may properly be allowed, although no delusion can be proved. Each case must be taken with all its surrounding circumstances, and legal theories of insanity are chiefly valuable, not as rigorous axioms of law, but as cautions to be observed by the jury.

The great difference of opinion which exists between physicians and jurists in reference to this plea, appears to me to consist in this: Most jurists aver that no degree of insanity should exempt from punishment for crime, unless it has reached that point *that the person is utterly unconscious of the difference between right and wrong at the time of* committing the alleged crime. Physicians, on the other hand, affirm that this is not a proper test of the existence of that degree of insanity which should exempt a man from punishment; that those who are laboring under confirmed insanity, and who have been properly confined in asylums for years, are fully conscious of the difference between right and wrong, and are quite able to appreciate the illegality as well as the consequences of their acts. Again, those who have patiently watched the insane for years, agree that the legal test of utter unconsciousness of right and wrong in the performance of acts would in reality apply only to persons who were suffering from delirium, from a furious paroxysm of mania, or from confirmed idiocy; and that if the rule suggested—that a person, in order to be acquitted on the ground of insanity, should be first proved to be as *unconscious* of his act *as a baby*—were strictly carried out, there is scarcely an inmate of an asylum who happened to destroy a keeper or attendant who might not be executed for murder. Such a rule amounts to a *reductio ad absurdum:* it would abolish all distinction between the sane and the insane, between the responsible and the irresponsible; and it would consign to the same punishment the confirmed lunatic and the sane criminal. This species of *baby-unconsciousness of action* exists in idiots as well as in furious maniacs, but not in the majority of lunatics; and it may be safely asserted that, if this criterion be the true one, acquittals on the ground of insanity have involved a series of gross mistakes for the last fifty years. It may be said that the consciousness of the insane is an insane consciousness, while the law implies the consciousness of a sound mind; but this involves a *petitio principii*. There have been numerous cases of acquittal in which, until the act of homicide was committed, there was no imputation either against the sanity or the sane consciousness of the accused. Having pointed out these incon-

sistencies, it is only proper to acknowledge that in theory the English law would punish a lunatic just as it would punish a sane man, provided the lunatic "had that degree of intellect which enabled him to know and distinguish between right and wrong, or what was lawful and unlawful; if he knew what would be the effects of his crime, and consciously committed it; and further, if with that consciousness he wilfully and intentionally committed it." In practice, however, it is placed beyond doubt that some who ought to be convicted under these rules are acquitted on the legal fiction that they were at the time unconscious (or only insanely conscious) of the wrongfulness of their acts. Dr. Wood states, that of thirty-three men confined as lunatics in Bethlehem who had actually committed murder, not including those where an unsuccessful attempt was made to perpetrate the same crime, *three* were reported sane; he feels quite satisfied that two of these were *not insane* at the time they committed the murders, and of the fifteen men who had actually committed murder, five were reported sane, and two of them ought, in his judgment, never to have been acquitted on the ground of insanity. ("Plea of Insanity," p. 50.) According to Dr. Hood, in the six years from 1852 to 1858, 120 persons who were tried for murder, or attempt at murder, or acts of personal violence, were acquitted on the ground of insanity. Of that number, 79 were received into Bethlehem Hospital, and in several instances they exhibited no symptoms of insanity while they were resident in the asylum. These facts, then, are sufficient to show that the rule of law generally adopted does not err on the side of severity. The only complaint that can be made is, that it operates with uncertainty. Of late years some learned judges have admitted that there might be a consciousness that the act was wrong and illegal, and yet the person would be exempted from criminal responsibility, provided it was proved by other circumstances, that he labored under a disease of the mind sufficient to prevent him from exercising a proper control over his actions.

When the defence of insanity is set up, in a charge of murder, in order to warrant the jury in acquitting a prisoner, it must be proved affirmatively that he was *insane in a certain legal sense, at the time of perpetrating the act;* if this be left in doubt, and if the crime charged in the indictment be proved, it is their duty to convict him. *Reg.* v. *Stokes*, 3 Car. and Kir. p. 185.) It is necessary to impress upon the mind of the medical witness, that it is not medical but legal insanity which has to be proved on these occasions to the satisfaction of a jury. As no two medical men agree about what is madness in a medical sense, and as some "mad doctors" have even held that all great criminals are necessarily insane, it is obvious that the power to absolve from responsibility could not be placed in the hands of the profession with a due regard to the protection of society, or a safe administration of the law. The facts stated by Drs. Hood and Wood, in reference to the admission of alleged criminal lunatics into Bethlehem (*supra*), show that either by legal or medical ingenuity, or both combined, sane men are incarcerated as irresponsible lunatics!

Homicidal Insanity.—Homicidal mania or monomania is commonly

defined to be a state of partial insanity, accompanied by an *impulse* to the perpetration of murder: hence it is sometimes called impulsive or paroxysmal mania. There may or may not be evidence of *intellectual* aberration, but the main feature of the disorder is the existence of a destructive impulse which, like a delusion, cannot be controlled by the patient. This impulse, thus dominating over all other feelings, leads a person to destroy those to whom he is most fondly attached, or any one who may be involved in his delusion. Sometimes the impulse is long felt, but concealed and restrained: there may be merely signs of depression and melancholy, low spirits, and loss of appetite, as well as eccentric or wayward habits, but nothing to lead to a suspicion of the fearful contention which may be going on within the mind. As in suicidal mania, many of those who are in habits of daily intercourse with the patients have been first astounded by the act of murder, and then only for the first time led to conjecture that certain peculiarities of language or conduct, scarcely noticed at the time, must have been symptoms of insanity. Occasionally the act of murder is perpetrated with great deliberation, and apparently with all the marks of sanity. These cases are rendered difficult by the fact that there may be no distinct proof of the existence, past or present, of any disorder of the mind, so that the chief evidence of mental disorder is the *act* itself: of the existence of insanity, in the common or legal acceptation of the term, before and after the perpetration of the crime, there may be either no evidence whatever, or it may be so slight as not to amount to proof. Such cases are regarded and described by some medico-legal writers as instances of *insanity of the moral feelings* only, and this condition has been called "*Moral insanity*" (p. 639). Its existence, as a state independent of a simultaneous disturbance of the reason or intellect, is denied by the great majority of lawyers, as well as by some eminent medical authorities. Whether such a condition exists or not is a simple question of fact, to be established if possible by clear and conclusive evidence. Its existence in the case of a person charged with murder appears to have rested hitherto on a mere medical dictum. Intelligible reasons have not been assigned by those witnesses who have sought to satisfy a court of law that this has as distinct an existence as intellectual insanity; in general, it is only alleged and not proved to exist in a given case. If its existence were satisfactorily established, it would, as Mr. Stephen observes, do away with one of the essential ingredients of crime—malice, and thus justify a jury in acquitting a person charged with murder. The accused on these occasions is assumed to have been an involuntary agent. As Mr. Stephen suggests, it might be a good defence to admit that a man loaded a pistol and pointed it at the head of another, but that it was fired by a sudden involuntary action of the necessary muscles, and not by the prisoner's will. The only difficulty is to get a jury to believe it! The evidence given in support of the assertion that a man is morally insane is, generally speaking, at least as consistent with the theory that he is a great fool and a great rogue, as with the theory that he is the subject of a special disease the existence of which is doubtful. ("Criminal Law," p. 95.) There is no doubt that

the unrestricted admission of such a theory would go far to do away with all punishment for crime, for it would render it utterly impossible to draw a line between (moral) insanity and moral depravity. What is crime but the perversion of moral feelings? Moral insanity in a person of *sound mind* is a contradiction in terms; whenever the mind is sound, a man's conscience and sense of right and wrong will always be sufficient to enable him to restrain evil desires and impulses.

Symptoms.—Homicidal mania in its more common form, may make its appearance at all ages, even in children; it is occasionally periodical, and the paroxysm of insanity is preceded by symptoms of general excitement. The patient experiences colicky pains, and a sense of heat in the abdomen or chest; headache, restlessness, and loss of appetite, with lowness of spirits; the face is flushed or pale, the pulse hard and full, and the whole body is in a state of convulsive trembling. An act of violence is committed without warning, and the patient appears as if relieved from some oppressive feeling. He may be calm, and express neither regret, remorse, nor fear; he may coolly contemplate his victim, confess the deed, and at once surrender himself to justice. In some rare instances he may conceal himself, hide the weapon, and, like a sane criminal, endeavor to obliterate all traces of the crime—thus showing a perfect consciousness of the illegality or wrongfulness of the act, and a desire to evade discovery. These are, however, the main features of crime, and unless there is independent evidence of mental disorder, or of some bodily disease affecting the brain and destroying the power of self-control, the conclusion must be that the person is sane and responsible. The great problem to be solved on these occasions is—What are the plain practical distinctions between defective reasoning power and perverted moral sense? The latter condition alone should not exculpate a person or absolve him from punishment—or persons undeniably sane who have committed crimes, should be equally exculpated and absolved from punishment.

The symptoms above described have been observed to be more aggravated in proportion as the homicidal impulse was strong. The propensity to kill is sometimes a fixed idea, and the patient can no more banish it from his thoughts than a person afflicted with insanity can divest himself of the delusive ideas which occupy the mind. (Esquirol, vol. 2, p. 105.) It has been supposed that Esquirol here implies a state in which there is no perversion of *intellect.* The facts which he mentions, however, clearly prove the contrary; for if a patient has not the power to banish from his thoughts this propensity to kill, he has passed beyond the bounds of reason, and is really insane. The admission of this fact proves that his mind must be unsound. Esquirol says—before the perpetration of the act there may be no sign of irrational conversation or conduct; but he asks the question: because there is no proof of irrationality, are we to assume that these persons possess reason? Is it possible to reconcile the existence of a rational state of mind with the murder of those who are most dear to them? (Op. cit. vol. 2, p. 102.) In Esquirol's view, therefore, it may be taken that mere perversion of *feelings*

(insanity), irrespective of some latent aberration of *intellect*, does not exist, and moral insanity is a conventional term for a state in which the proofs of mental disturbance are not so clear as in the generality of cases.

An erroneous notion prevails in the public mind, that a homicidal lunatic is easily to be distinguished from a sane criminal by some *certain* and invariable symptoms or characters, which it is the duty of a medical witness to display in evidence, and of a medico-legal writer to describe. But a perusal of the evidence given at a few trials will surely satisfy those who hold this opinion, that each case must stand by itself. It is easy to classify homicidal lunatics, and say that in one instance the murderous act was committed from a motive, *i. e.*, revenge or jealousy; in a second from no motive, but from irresistible impulse; in a third from illusion or delusive motive, *i. e.*, mental delusion; in a fourth from perverted moral feeling, without any sign of intellectual aberration. This classification may comprise all the varieties of homicidal insanity, but it does not help us to ascertain, in a doubtful case, whether an act was or was not committed under any of these psychological conditions. It enables us to classify those who are *acquitted* on the ground of insanity, but it entirely fails in giving us the power to distinguish a sane from an insane criminal, or a responsible from an irresponsible agent. According to M. Esquirol, whose views, more or less modified, are adopted by all writers on the medical jurisprudence of insanity, the facts hitherto observed indicate *three degrees* of homicidal mania:—

1. In the *first* degree the propensity to kill is connected with absurd or irrational motives or with *actual delusion*. The person would be at once pronounced insane. Cases of this description are not uncommon, and they rarely create any difficulty.

2. In the *second* degree, the desire to kill is connected with *no known motive*. It is difficult to imagine a motive for the deed; the person appears to have been led on by some impulse. There may have been *delusion*, but there is no evidence of the pre-existence of this. With respect to this class of cases, Mr. Stephen observes: "There are motives for all acts even the maddest, but it is frequently impossible to assign them specifically. It is, however, generally impossible to form an opinion whether a given act was done from some unknown mad motive, or from some unknown sane motive." (Op. cit. p. 88.)

3. In the *third* degree, the impulse to kill is *sudden*, instantaneous, unreflecting, and *uncontrollable* (*plus forte que la volonté*). The act of homicide is perpetrated without interest, without motive, and often on persons who are most fondly loved by the perpetrator. (Esquirol "Maladies Mentales," vol. ii. p. 834.) It is this form, which has been called "impulsive insanity," which has given rise to so much contention on trials for murder in which insanity is set up as a defence, and therefore it will be well to consider this subject in a legal aspect. Mr. Stephen thus comments upon it: "It is said that on particular occasions men are seized with irrational or irresistible impulses to kill, to steal, or to burn, and under the influence of such impulses

may sometimes commit acts which would otherwise be most atrocious crimes. It would be absurd to deny the possibility that such impulses may occur, or the fact that they have occurred and have been acted on. Instances are given in which the impulse was felt and resisted. The only question which the existence of such impulses can raise in the administration of criminal justice, is whether the particular impulse was *irresistible* as well as *unresisted*. If it was irresistible, the person accused is entitled to be acquitted, because the act would not then be voluntary and not properly his act. If the impulse was *resistible*, the fact that it proceeded from disease would be no excuse at all. If a man's nerves were so irritated by a baby's crying that he instantly killed it, his act would be murder; it would not be less murder if the same irritation and corresponding desire were produced by some internal disease. The great object of the criminal law is to induce people to control their impulses; and there is no reason why, if they can, they should not control insane as well as sane impulses. The proof that an impulse was irresistible depends on the circumstances of the particular case. The commonest and strongest cases are those of women who, without motive or concealment, kill their children after recovery from childbed" (puerperal mania). (Op. cit. p. 95.)

The three forms in which a homicidal propensity may thus present itself in cases of insanity differ from each other only in degree—the two first being strongly analogous to but lighter modifications of the third. All the cases which came before M. Esquirol had these features in common—an irritable constitution, great excitability, singularity or eccentricity of character; and previously to the manifestation of the homicidal feeling there was a gentle, kind, and affectionate disposition. As in other forms of insanity, there was some well-marked *change of character* in the mode of life; and this may be taken as a proof that there must have been some degree of intellectual disturbance. The period at which the disorder commenced and terminated could be easily defined, and the attack could be almost always referred to some moral or physical cause. Attempts at suicide preceded or followed the attacks; all wished to die, and some desired to be put to death like criminals. In none of these cases was there any discoverable motive for the act of homicide.

M. Esquirol believes that there are well-marked distinctions between this state and that of the sane criminal. Among these he enumerates: 1. The want of accomplices in homicidal mania. 2. The sane criminal has *always* a motive—the act of murder is only a means for gratifying some other more or less criminal passion, and is almost always accompanied by some other wrongful act; the contrary exists in homicidal mania. 3. The victims of the criminal are those who oppose his desires or his wishes—the victims of the monomaniac are among those who are either indifferent to or who are the most dear to him. 4. The sane criminal endeavors to conceal, and if taken denies the crime; if he confesses it, it is only with some reservation, and when circumstances are too strong against him; but he commonly denies it to the last moment—it is the reverse

with the monomaniac. The exceptions to which these characters are open will be considered hereafter. They have, undoubtedly, greater value in their combined than in their individual application, and when in any case they coexist, there is strong reason to believe that the person accused of murder is laboring under a homicidal mania. The great difficulty in these cases, however, is to distinguish *moral depravity* from *insanity*. I agree with a medico-legal writer on this subject, that "no hideousness of depravity can amount to proof of insanity, unsupported by some evidence of a judgment incapacitated, or of a will fettered by disease. In those cases in which the emotions are perverted, and where there is no clear proof of *deranged intellect*—cases which do from time to time occur—the presumption of insanity in regard to a criminal action has to be upheld by evidence of a suspension of the will from mental disease. If it can be proved that the act was not voluntary, this does away with its criminal nature." (Jamieson's Lectures on the Med. Jur. of Insanity, "Med. Gaz.," vol. 48, p. 181.) But it is impossible in many cases to produce satisfactory evidence of the suspension of the will as a result of disordered mind: this suspension can in general be *assumed* only from the act itself—a dangerous assumption, and one that might lead to the crime of insanity, and to the exculpation of all criminals.

Legal Tests.—Admitting the existence of homicidal mania, as thus defined by Esquirol, it may become a question, how, when pleaded for one charged with murder, it is to be practically distinguished from a case in which the crime has been perpetrated by a really sane person. Tests, both medical and legal, have been proposed. The *legal test* was explicitly stated in the following terms by the whole of the judges in conference, in answer to queries put by the House of Lords on the case of *M'Naughten*, who was tried and acquitted on the ground of insanity (June 19, 1843):—

"Notwithstanding a party commits a wrong act while laboring under the idea that he was redressing a supposed grievance or injury, or under the impression of obtaining some public or private benefit, he is liable to punishment. The jury ought in all cases to be told that every man should be considered of sane mind until the contrary was clearly proved in evidence; that, before a plea of insanity should be allowed, undoubted evidence ought to be adduced that the accused was of *diseased mind*, and that at the time he committed the act *he was not conscious of right or wrong*. Every person was supposed to know what the law was, and therefore nothing could justify a wrong act, except it was clearly proved that the party did not know right from wrong; if that was not satisfactorily proved, the accused was liable to punishment. If the *delusion* under which a person labored were only *partial*, the party accused was equally liable with a person of sane mind. If the accused killed another in self-defence, he would be entitled to an acquittal; but if the crime were committed for any supposed injury, he would then be liable to the punishment awarded by the laws to his crime." ("Brit. and For. Med. Rev." July, 1843, p. 273.) [See Dr. Bucknill's remarks upon

M'Naughten's case, and his criticism upon the dicta of the judges, in answer to the queries of the House of Lords. Bucknill's Essay on Criminal Lunacy ("Law Library," vol. 92), p. 44 et seq.—P.]

It would appear that the law, as thus laid down, in order to render a man responsible for crime, looks for a *consciousness of right and wrong, and a knowledge of the consequences of the act;* while the administration of justice rests on the principle that every one knows the law and fears its punishment. Thus, the complete possession of reason is not essential to constitute the legal responsibility of an offender; and it is also to be inferred, from the results of several cases, that a man may be civilly incompetent, but sufficiently sane to be made criminally responsible. The proofs required in the two cases are essentially distinct.

It has been objected to this *legal test*, that it is insufficient for the purpose intended: it cannot, in a large majority of cases enable us to distinguish the insane homicide from the sane criminal. Many *insane persons* have committed acts which they knew to be wrong, and of the criminality of which they were at the time perfectly conscious. They have been known to murder others, in order to receive the punishment of death at the hands of the law; and therefore they must have been conscious of the wrongfulness, or rather of the illegality, of the act which they were perpetrating, and have known that they were committing an offence punishable by the law of man. In short, the criminal nature of the act has often been the sole motive for its perpetration! ("Ann. d'Hyg." 1852, vol. 1, p. 363.) It has been suggested, with some truth, that it is rather the imperfect or defective appreciation of the motives to right or against wrong action which leads to crime among the insane, and not the mere ignorance of right and wrong. Most lunatics have an abstract knowledge that right is right and wrong wrong; but in true insanity the voluntary power to control thought and actions, and to regulate conduct by this standard, is impaired, limited, or overruled by insane motives. A lunatic may have the power of *distinguishing* right from wrong, but he has not the power of *choosing* right from wrong. A criminal is punishable not merely because he has the power of distinguishing right from wrong, but because he voluntarily does the wrong, having the power to choose the right. (Jamieson's Lectures on Insanity, "Med. Gaz." vol. 46, p. 827.)

[Dr. Forbes Winslow, in speaking of the defence of insanity in criminal cases, uses the following language: "When such questions have come before the judicial tribunals of the country, the presiding judge, in his charge to the jury, has invariably referred to the dicta of preceding administrators of the law, and has quoted their definition or description of insanity as an unerring test of the presence of mental derangement in any case in which the malady is alleged to exist.

"How absurd, upon reflection, must such a course of procedure be. Has not our knowledge of the disorders of the mind advanced during the last fifty years? Do we not know more of insanity than our professional brethren did who lived in the days of Coke, Mans-

field, and Erskine? If so, how ridiculous it is to cite their opinions or to bind us down to the authority of men whose information on this subject must of necessity have been extremely limited and circumscribed. The judges of the land appear to have had no settled or clear views on the subject of insanity." * * * "After an examination of the cases which have been brought forward in this work, it must be evident that the capability of 'distinguishing between right and wrong,' is not an unerring test to which to appeal. A person may be perfectly competent to draw a correct distinction between right and wrong, and yet labor under a form of insanity which ought unquestionably to protect him from legal or moral responsibility." (Plea of Insanity, p. 73.) "The knowledge attained by men, of a subject which they have grappled all their lives," says Chief Justice Gibson, in *Smith* v. *Kramer*, 1 Am. Law Reg. 353, "ought surely to prevail against knowledge gleaned from the hornbooks of a profession to which the gleaners did not belong."

The same eminent judge, in the case of *Com.* v. *Mosler*, 4 Barr. 266, admitted that moral insanity, if established, would relieve the defendant from criminal responsibility. "There may be," said he, in his charge to the jury, "an unseen ligament pressing on the mind, drawing it to consequences which it sees but cannot avoid, and placing it under a coercion, which, while its results are clearly perceived, is incapable of resistance. The doctrine which acknowledges this mania is dangerous in its relations, and can be recognized only in the clearest cases. It ought to have been shown to have been habitual, or at least to have evinced itself in more than a single instance. It is seldom directed against a particular individual; but that it may be so, is proved by the case of the young woman who was deluded by an irresistible impulse to destroy her child, though aware of the heinous nature of the act. The frequency of this constitutional malady is fortunately small, and it is better to confine it within the strictest limits. If juries were to allow it as a general motive, operating in cases of this character, its recognition would destroy social order as well as personal safety. To establish it as a justification in any particular case, it is necessary either to show, by clear proofs, its contemporaneous existence evinced by present circumstances, or the existence of an habitual tendency developed in previous cases, becoming in itself a second nature." The defence was not established in this case, and the prisoner was convicted.

Judge Lewis, afterwards Chief Justice of Pennsylvania, in a case which was tried before him while presiding in Lycoming County, used the following language, in speaking upon the same subject: "Moral insanity arises from the existence of some of the natural propensities in such violence that it is impossible not to yield to them. It has a striking resemblance to vice, which is said to consist in an undue excitement of the passions and will, and in their irregular or crooked actions leading to crime. It is therefore to be received with the utmost scrutiny. It is not generally admitted in legal tribunals as a species of insanity which relieves from responsibility for crime, and it ought never to be admitted as a defence, until it is

shown that these propensities exist in such violence as to subjugate the intellect, control the will, and render it impossible for the party to do otherwise than yield where its existence is fully established. This species of insanity relieves from accountability to human laws. But this state of mind is not to be presumed without evidence, nor does it usually occur without some premonitory symptoms indicating its approach." (See Lewis's Crim. L. 404.)

In the case of *Commonwealth* v. *Shurlock*, in the Court of Oyer and Terminer of Philadelphia, in January, 1857, Judge Allison, now president judge of the court, charged the jury that to justify a verdict in favor of the defendant, on the ground of insanity, they must find from the evidence in the cause, that at the time of the commission of the act, the defendant "was either incapable of distinguishing between right and wrong, in relation to the act perpetrated by him, and of judging of the consequences, which would be likely to flow from the discharge of the contents of his loaded pistol into the body of the deceased—that reason as to the act in question, must have been overthrown so as to have left the prisoner unconscious of the deed committed by him and its consequences;" or that, "though conscious of the act he was about to perpetrate, and its results, yet *governed by an uncontrollable impulse, his will no longer in subjection to his reason, owing to the excited and continued impetuosity of his thoughts*, the tumultuous and confused condition of his mind, goaded by a sense of grievous wrong, he was wrought up to a frenzy bordering upon madness, which for the time being rendered him unable to control his actions or to direct his movements." ("Legal Intelligencer," 1857, p. 33.) In the case of *Commonwealth* v. *Smith*, tried before the same court in 1858, the above instruction was repeated. "A defence of this character," said Judge Allison, in this case, "requires, however, to be examined with the greatest care; nor should it be relied upon unless established by the clearest proof. That there is a moral or homicidal insanity, cannot be well questioned at the present day." * * * "The doctrine should, however, be received in all cases with caution, lest every inclination to do evil be set up as an excuse for crime, and every perversion of the moral sentiment be made to serve as a shield against punishment for a violation of law. Nothing could be fraught with greater danger to the peace and safety of society than the recognition of the doctrine that a perverted or disordered state of the affections or moral state of the mind should afford an immunity from punishment. If it amounts to anything short of an absolute dispossession of the free and natural agency of the mind, it should be discarded as having no value as a defence." ("Legal Intelligencer," 1858, p. 33.)

It is to be borne in mind, however, in all cases of this sort, that the object of criminal laws is twofold, viz., reformation of the offender and protection of the community; and that of the two, the latter is by far the most important. There is great force therefore in the remarks of Bramwell, B. in the case of *Reg.* v. *Roberts*, Maidstone's Winter Assizes, 1860. The prisoner was indicted for arson, and convicted, notwithstanding evidence of moral insanity—the "right

and wrong test" being applied to his case. "That you are of unsound mind I believe," said that learned judge, "but that is no reason why you should not be punished. I address the explanations of the reasons why I pass upon you the sentence which I am about to pronounce, not so much to your understanding as to those around who hear me, and to those whose duty it is to notice them. The law makes unsoundness of mind no excuse for offences, except it were such that you did not at the same time know the nature of what you were doing, and that it was wrong and unlawful. No doubt it is very unfortunate that persons of unsound mind should become by that affliction less under the influence of moral restraints and of the restraints of law, but it would be sad indeed for the public if, when these restraints are weakened, the protection of the law were to be withdrawn by the extension of impunity to crime. I am not sure that it is not more necessary to punish a madman than a sane man, so far as the protection of the public is concerned. I feel bound to sentence you to the same punishment as if you were sane."

The objection to adhering to the old decisions with reference to the test of criminal responsibility, in the face of the great advance which has taken place in the last fifty years in the scientific knowledge of the subject of insanity, is that juries rather than suffer an insane criminal, whose unsoundness does not come up to the antiquated standard, to be punished in the same manner as if he were sane, acquit him altogether. He is thus turned loose: if his insanity has *not* been real, a criminal escapes; if it *has*, then society is again exposed to the dangerous freaks of a madman. Even if they convict, notwithstanding the actual existence of moral insanity, the lunatic is restrained only during the period of his sentence, and the same result ensues. If judges, instead of "moving in the ruts" of their predecessors, would, as it is the boast of the common law they do, keep pace with the advance of science; if juries were required, as they are in some States, to find the fact of insanity whenever they acquit on this ground; or, if, what would perhaps be still better, the jury, as it has been suggested (Whart. & Stille, "Med. Jur" § 277), were permitted simply to pass upon the mere fact of the commission of the act, leaving the consideration of the prisoner's sanity for a commission or jury of scientific men, competent to decide so difficult a question; if whenever the prisoner is acquitted because of insanity, the court should in all cases commit him to a proper asylum, there to remain *until proved before the same tribunal to be entirely restored;* the plea would be much less frequently set up, and would be much more apt to be properly decided, if it should be. Criminals would thus be surer of punishment, the really insane have an opportunity of being restored by proper treatment, and society have the protection which, under the "right and wrong" test, it so often loses. Where the offence is homicide, as Dr. Taylor very properly remarks, the confinement of the prisoner acquitted on the ground of moral insanity, should, for the reasons he mentions, be for life.—P.]

Medical Tests.—The *tests* which have been proposed by medical jurists for detecting cases of homicidal mania are as follows:—

1. The acts of homicide have generally been preceded by other striking *peculiarities of conduct* in the person—often by a total change of character.

2. Those persons who are affected with it have in many instances previously or subsequently attempted *suicide*—they have expressed a wish to die or to be executed as criminals. These supposed criteria when tendered as medical proofs of insanity in courts of law, have been repeatedly and very properly rejected. They are of too vague a nature for practical use, and apply as much to cases of moral depravity as of actual insanity; in short, if these were admitted as *proofs*, they would serve as a convenient shelter from punishment for many sane criminals.

3. *Motive for Crime.*—The acts are without *motive;* they are in opposition to all human motives. A man known to have been tenderly attached to his wife and children murders them—a fond mother destroys her infant. It is hereby assumed or implied that persons who are sane never commit a crime without an apparent motive, and that in the perpetration of a criminal act an insane person either never has a motive, or has one of a delusive nature only. If these propositions were true, it would be easy to distinguish a sane from an insane criminal; but the rule wholly fails in practice. In the first place, the non-discovery is here taken as a proof of the non-existence of a motive; while it is undoubted that motives may exist for many atrocious criminal acts without our being able to discover them—a fact proved by the numerous recorded confessions of criminals before execution, in cases in which until these confessions were made, no motive for the perpetration of the crime had appeared to the acutest minds. [*Com.* v. *Mosler*, 4 Barr. 266.—P.]

4. *Confessions.*—The subsequent conduct of the person: he seeks no escape, delivers himself up to justice, and acknowledges the crime laid to his charge. This is commonly characteristic of homicidal mania; for by the sane criminal every attempt is generally made to conceal all traces of the crime, and he denies it to the last, or until he sees that denial can be no longer serviceable to him.

5. *Accomplices.*—The sane murderer has generally *accomplices* in vice or crime; the homicidal monomaniac has not. Upon this it may be observed that some of the most atrocious murders committed in modern times have been proved to be the acts of persons who had neither accomplices nor any assignable inducements leading to the commission of the crimes. It is, however, a fact so far in favor of the existence of homicidal insanity, that the *insane* never have accomplices in the acts which they perpetrate. These criteria can hardly be described as medical; they are circumstances upon which a non-professional man may form just as safe a judgment as one who has made insanity a special study.

6. *Delusion in the Act.*—The presence of *delusion* has been said to characterize an act of homicidal monomania, while premeditation, precaution, and concealment have been considered to be the essential features of the act of a sane criminal. Some medical men think,

if they discover anything resembling a delusion in the mind of an accused person, that he is necessarily irresponsible for the act, but the theory of the law as laid down by the judges in *M'Naughten's* case, is that notwithstanding a person labors under a delusion, if he commits an act which he knows to be contrary to law he is liable to punishment: if the delusion be *partial* the party accused is still responsible; and if the crime were committed for an imaginary injury he would be held equally responsible. (See ante, p. 686.) Much stress was formerly laid upon the *delusion being connected with the act* in cases of alleged insanity; but it must be remembered that, except by the confessions of insane persons during convalescence, it is not easy for a *sane mind* to connect the most simple acts of a lunatic with the delusion under which he labors. Every act of homicide perpetrated by a really insane person is doubtless connected with some delusion with which he is affected; but it is not to be supposed that one who is sane can always make out this connection.

It may be further observed that premeditation, precaution, concealment, and flight are met with in crimes committed by both sane and insane criminals, although these acts are certainly strong characteristics of sanity. It should be a question for a jury whether, when they are proved to have existed in any criminal act, there might not have been such a power of self-control in the person, although in some degree insane, as to justify a conviction. It is not the presence of a slight degree of mental aberration which necessarily indicates a loss of power of controlling actions. Are such persons less beyond the influence of example than one half of the sane criminals who are punished?

7. *A Number of Murders perpetrated at once.*—In the acts of sane criminals one person, or at the most two, may be destroyed; but, in cases of homicidal mania, it is not unusual to find a wife and several children killed by the husband, or four or five children at once destroyed by the wife. In these cases no motive but that which is based on some insane delusion can be suggested for such a series of murders. Thus, four infants may be found murdered by a mother, who admits the act but endeavors to account for it by asserting that she wished to convert them into angels, or to save them from destitution and exposure to worldly temptations. It would be wrong, however, to infer from this statement that because a man has heaped crime upon crime, he is therefore insane. This would be equal to making the atrocity of the crime or crimes a test of insanity. In the case of Southey (*Reg.* v. *Southey*, Maidstone Winter Assizes, 1865), it was proved that the prisoner, a man of wicked and depraved habits, had destroyed three of his children in London, and had then proceeded to Ramsgate, and there deliberately destroyed his wife and another child. He pretended to justify these five murders, and wished to make it appear that he was insane. In regard to his conduct through life, nothing but moral depravity was proved. Still this man found medical defenders who brought forward as proofs of "delirium," statements which clearly showed that they

did not understand the meaning of the term. It was admitted that if the man had committed one of the murders, he might have been sane, but having committed five in succession, he was insane and incompetent to judge of the nature of his acts! The fallacy of such an argument needs no exposure.

Summary.—The foregoing considerations lead to the inference that there are *no certain legal or medical tests* whereby homicidal mania can be demonstrated to exist. Each case must be determined by the circumstances attending it; but the true criterion of irresponsibility in all ambiguous cases appears to be whether the person, at the time of the commission of the crime, had or had not a *sufficient power of self-control to govern his actions;* or, in other words, whether he knew the act was wrong, and could avoid the perpetration of it. This involves, the consideration, not only whether insanity existed in the accused, but whether it had reached a degree to destroy, not merely a consciousness of the nature of the act, but volition—the will to do or not to do it. If from circumstances it can be inferred that an accused person had this power, whether his case falls within the above rules or not, he should be made responsible and rendered liable to punishment. If, however, he was led to the perpetration of the act by an *insane* impulse, or, in other words, by an impulse which his mental condition did not allow him to control (lésion de volonté, Esquirol), he is entitled to an acquittal as an irresponsible agent. The power of controlling an act appears to me to imply the existence of such a state of sanity as to render the party responsible: and when there is this want of control, it may be fairly concluded that there is no sane intention, and that the person is irresponsible. A test somewhat similar to this is constantly applied by juries, under the direction of our judges, to distinguish murder from manslaughter: and it is quite certain that sanity and homicidal mania are not more nicely blended than those shades of guilt whereby manslaughter passes into murder. The manner and circumstances under which a crime is committed will often allow a fair inference to be drawn as to how far a power of self-control existed or was exercised. A man in a violent fit of mania or delirium rushes with a drawn sword into an open street, and stabs the first person whom he meets; another, worn out by poverty and destitution, destroys his wife and children to prevent them from starving, and then probably attempts to murder himself: these are cases in which there is a fair ground to entertain a plea of irresponsibility. But when we find a man not showing any previous intellectual disturbance, lurking for many days together in a particular locality, having about him a loaded weapon —watching a particular person who frequents that locality—not facing the individual and shooting him, but coolly waiting until he has an opportunity of discharging the weapon unobserved by his victim or others—the circumstances appear to show such a perfect adaptation of means to ends, and such a power of controlling actions, that it is difficult to understand on what principle an acquittal on the ground of insanity could have been allowed. I refer here to the case of *M'Naughten*, tried for the murder of *Mr. Drummond*,

January, 1843. The acquittal in this case was the more remarkable because there was no proof of general insanity, and the crime was committed for a supposed injury. According to the rules laid down by the fifteen judges, from questions submitted to them in connection with this case, this man should certainly have been convicted. These acquittals on the ground of insanity, contrary to public opinion, are often erroneously ascribed to the crotchets of medical experts. They are, I believe, more commonly due to the powerful and impassioned addresses of counsel, who in civil as well as in criminal cases simply fight for victory, wholly irrespective of any abstract ideas of truth or justice. Medical opinions are brought forward or suppressed in order to complete a sensational picture, which is intended to show to an ignorant jury, either that a lunatic is perfectly sane, or that a sane man who has committed a deliberate act of murder, is beyond any reasonable doubt insane. Every artifice of argument which may raise a doubt in the minds of the jury is resorted to on these occasions, and the last words of the last eloquent speaker have a far greater influence on the verdict than the opinions of "mad doctors" in the witness-box. These admit of being misrepresented and turned into ridicule without any power of reply on the part of those who gave them. [Dr. Bucknill (Criminal Lunacy, 98, 99) mentions the case of *Margaret Garrety*, who was tried in 1851, at Newark, New Jersey (see "Am. Jour. Ins.," January, 1852) for "the assassination, with a carving-knife, of a young man who had seduced her and afterwards married another woman. This trial," he says, "presents a remarkable instance of perversion of the plea by the jury, in order to avoid the condemnation and execution of an ill-used woman. The jury were sixty-two hours in deliberation; their verdict of 'not guilty on the ground of insanity,' was greeted with applause in the court-house, and with universal congratulation and rejoicing in the city. The celebrated Hampshire verdict, 'Served him right,' would perhaps have been more consistent, if not with the facts of the case, at least with the temper of the public. After the trial, the court appointed a commission consisting of six physicians, to examine her case, and decide whether she should be sent to the asylum or set at liberty. They unanimously reported, that after careful investigation, they found existing no evidence of unsound mind."—P.]

In cases of alleged homicidal mania very vague meanings have been sometimes assigned to the term *delusion*. In *Reg.* v. *Burton* (Maidstone Lent Assizes, 1863), the prisoner, a youth of 18, was indicted for the murder of a boy at Chatham. There was no motive, but it was argued by his counsel in defence, that he labored at the time under a delusion—the delusion being a desire to be hanged. Mr. Joy, the surgeon of the prison, stated that he had had frequent opportunities of examining the prisoner while in gaol, and in his opinion he was perfectly sane; so far as witness could judge, he was under no delusion. The jury returned a verdict of "guilty." If the youth had believed that he had been already hanged for murder, this might have been considered a delusion; but a desire to be

hanged or to die from any violent cause cannot be so regarded. The remarks of the learned judge (the late Mr. Justice Wightman) upon this kind of defence contains all that is necessary to show its fallacy. In passing sentence upon the prisoner he said: "It is stated that you labored under a morbid desire to die by the hands of justice, and that for this purpose you committed the murder. This morbid desire to part with your own life can hardly be called a delusion: and, indeed, the consciousness on your part that you could effect your purpose by designedly depriving another of life (for which you would have to suffer, as you knew, the punishment due to the greatest of crimes) shows that you were perfectly able to understand the nature and consequences of the act which you were committing, and that you knew it was a crime for which by law the penalty was capital. This was, in truth, a further, and I may say a deeper, aggravation of the crime; for you designedly intended to compass your own death by the murder of another."

It has been a disputed question whether a medical witness on a trial in which a defence of insanity is raised, can be asked his opinion from the evidence, respecting the state of a prisoner's mind at the time of the commission of the alleged crime, *i. e.* whether the accused was conscious at the time of doing the act that he was doing something contrary to law, or whether he was then laboring under any and what delusion. It has been decided, by fourteen judges out of fifteen, that facts tending to lead to a strong suspicion of insanity must be proved and admitted, before the opinion of a medical witness can be received on these points. (See "Med. Gaz." vol. 46, p. 240.)

In forming a judgment of the mental condition of an accused person, it is no part of the province of a witness to modify his opinion according to the *punishment* which may follow if the plea be rejected, but simply according to the medical *facts* of the case. The legislature only is responsible for the punishment adjudged to crimes. Dr. Mayo has justly observed, that a medical witness is summoned to a court of justice in order to enable the judge and jury to arrive at certain practical conclusions. The question proposed to him involves a simple fact and not its consequences; and if the latter consideration be entertained by him, it will be liable to bias his evidence on the fact, which is his legitimate topic. The definition of insanity becomes very expansive when its expansion may become protective to a criminal with whom we may happen to sympathize. The question whether the accused is a responsible agent is of a judicial nature: our evidence should be confined to the question whether the accused is *insane* in a certain sense or meaning in which it is understood and defined by law. ("Medical Testimony and Evidence in Cases of Lunacy," 1854, p. 9. A medical witness in these cases generally moulds his evidence to a foregone conclusion on the criminal responsibility of the accused, and he thus lays himself open to a remark from the judge that he must not encroach on the functions of the jury. It is certainly a great evil that, under the present mode of laying this question before a

jury, the law operates unequally. One case becomes a subject of prominent public interest, and every exertion is made to construe the most trivial eccentricities of character into proofs of insanity, and to magnify the effects of an hereditary tendency by proving that a maternal grandmother's sister or some remote relative had been confined as a lunatic: an acquittal follows. Another case may excite no interest—it is left to itself: the accused is convicted, and either executed or otherwise punished, although the evidence of insanity, had it been as carefully sought for and brought out, would have been perhaps stronger in this than in the former instance.

Probably no case in modern times has produced greater excitement in the public mind, or so strongly directed attention to the modern defence of insanity in trials for murder, as that of *George Victor Townley*, who was charged with the murder of a young lady to whom he was engaged to be married (*Reg.* v. *Townley*, Derby Winter Assizes, 1863). In this case there was a clear and distinct motive; there was a full consciousness of the nature of the act and of its penal consequences, as well as an absence of any delusion or of anything indicative of intellectual insanity in the conduct of the prisoner up to within a short time of the act, or in the numerous letters which he wrote. There was no proof that he had lost self-control or that he was fettered in his actions. The prisoner had entered into an engagement with the deceased (Miss Goodwin). Shortly before the murder she had written to him, requesting to be released from her engagement; she candidly told him that she had formed an attachment to another man. In his correspondence with her he requested a last interview, to hear (as he said) her determination from her own lips. The prisoner went to her house on the 21st August, 1863, induced the deceased to take a walk with him; and in about an hour she was found bleeding from severe wounds in the throat, from the effects of which she soon died. No sane murderer intending to destroy another would have pursued a different course. Townley it is true made no attempt to escape: he admitted that he had stabbed her, and assisted in carrying her dead body to Wigwell Hall, where she resided. At the trial there was no answer to the charge of murder, except that the prisoner was insane when he perpetrated the act; that he was maddened partly by the refusal of the deceased to marry him, and partly by the knowledge that she was engaged and would probably be married to another man. This theory found some medical support, but the jury returned a verdict of guilty. An attempt was afterwards made to rescue this criminal from punishment, but it failed. He was condemned to penal servitude and subsequently destroyed himself.

Tested by the rules respecting criminal responsibility assigned by Mr. Fitzjames Stephen, the evidence in Townley's case showed clearly intention, will, and malice. There was an absence of proof of delusion, and the allegation that the act arose from an irresistible impulse was a mere assumption, without any fact in the previous or subsequent conduct of the prisoner to give to it support. It may well be inquired of those who adopt the theory of

irresponsibility in this case—If this is *insanity*, what is *crime?* If Townley was irresponsible for *an act* thus coolly perpetrated, in which the motive was so clear, no person should hereafter be convicted of murder who stabbed a woman from jealousy, revenge, or mortified pride. There was no doubt that Townley had a consciousness of right and wrong—that he knew the act was illegal and punishable by the law of the land; but his guilt did not rest upon these judicial tests of criminal responsibility. He had this knowledge in common with all sane and some really insane persons. In his case, however, insanity was neither proved nor rendered even probable, while it was disproved by his conduct and all the circumstances connected with the act of murder. It may be wrong to convict all men who come up to this judicial standard, *i. e.*, who know right from wrong, because insanity may coexist with such knowledge; but it would be a *reductio ad absurdum* to contend that, in the absence of any clear proofs of insanity, a man is to be acquitted of crime when he knew that the act was wrong, and had well calculated the legal consequences. One medical defender of Townley, in order to account for the absence of symptoms of insanity, suggested that the duration of the homicidal impulse was short, and did not extend beyond the period of the commission of the act to which it impelled! There would be no difficulty on these principles in making out that every act of murder was the result of impulsive insanity, and that all murderers while stabbing others are morally insane, and therefore, although they may show sanity afterwards, they are irresponsible for their acts! The legal test of a consciousness of right and wrong is much complained of, but in practice it certainly cannot be said to err on the side of harshness or severity; for it is much more common to find that sane persons are acquitted on the ground of insanity, than that one who is really insane is convicted and punished as a sane criminal. But the medical assumption here suggested to extenuate Townley's crime would go far to exculpate every criminal who committed murder.

The doctrine of "irresistible impulse" and the theory of impulsive insanity, have been strained in recent times to such a degree as to create in the public mind a justifiable distrust of medical evidence on these occasions. It is obviously easy to convert this into a plea for the extenuation of all kinds of crimes for which motives are not at once apparent, and thus medical witnesses often expose themselves to severe rebuke. They are certainly not justified in setting up such a defence, unless they are prepared to draw a clear and common-sense distinction between impulses which are "unresisted" and those which are irresistible. As a learned judge once remarked in his address to a jury: "What is the meaning of not being able to resist an impulse? Every crime is committed under an impulse, and the object of the law is to compel persons to control or resist these impulses. If it is made an excuse for a person who has committed a crime, that he was goaded to it by some impulse which medical men might choose to say *he* could *not* control, such a doctrine would be fraught with very great danger to society."

While the truth of these remarks is obvious, it must be admitted that the ordinary legal test for responsibility is not satisfactory. In addressing the jury in *Reg.* v. *Cockcroft* involving a trial for murder (Leeds Autumn Assizes, 1865), Mr. Justice Mellor made the following observations on the defence of insanity which had been set up: "It would be dangerous if the idea went abroad that persons committing crime under sudden impulse were therefore to be excused. At the same time, he thought that the definition of insanity which would excuse from criminal responsibility, as given in M'Naughten's case, hardly went far enough. He was of opinion that a man might know that he was doing an act which was wrong, and still he might be laboring under such disease of the mind as not to be able to restrain his impulse to do that act, and he should therefore not be amenable to the criminal law. The mere fact, however, of the prisoner being ignorant and of a low type of mind would be no excuse. If the jury thought that the prisoner knew at the time when he committed the act that he was doing wrong, and was not laboring under such a disease of the mind as incapacitated him from controlling his impulses, he was not entitled to acquittal on the ground of insanity. The doctrine of uncontrollable impulse, as laid down by some writers, was a very dangerous one, and required to be watched with the utmost care. Passion arising from provocation, however trivial, offered to a mind however ill regulated, did not relieve the person from criminal responsibility."

Hence it follows that a man might know that he was doing wrong and committing an act against the law of God and man, yet if with this consciousness of the illegality of the act, there was a diseased condition of mind which prevented him from controlling his actions, he will be entitled to an acquittal on the ground of insanity. With this admission it appears to me unnecessary to occupy space with metaphysical discussions regarding criminal responsibility; for however objectionable the theory—if the *practice* of the law be in any one case in conformity with that which has been advised by writers on the Medical Jurisprudence of Insanity, although it may be even adverse to the theory on which it is professedly based, this is all with which we have to concern ourselves:—the principle is admitted. The great defect in the English law is, not that it will not go even to the full extent of exculpating a person who has committed a crime with a full knowledge of its illegality, and under what is called an "uncontrollable impulse," or an impulse which owing to mental disease his reason was not sufficient to control, but the *uncertainty of its application*. There are many cases reported which show that an acquittal on the ground of insanity is frequently a mere matter of accident.

CHAPTER LXIV.

SUICIDAL MANIA.—SUICIDE NOT NECESSARILY AN INDICATION OF INSANITY.—SUICIDE A FELONY.—IN RELATION TO LIFE-INSURANCE.—HEREDITARY TAINT.—PUERPERAL MANIA.—PYROMANIA.—KLEPTOMANIA.—DIPSOMANIA.—RESPONSIBILITY OF DRUNKARDS.—DELIRIUM TREMENS.—SOMNAMBULISM.—DEAFNESS AND DUMBNESS.

Suicidal Monomania,[1] or suicidal mania, is the name given to that form of insanity which is marked by the prominent idea of self-destruction. Its approach is insidious: it is foreshadowed by impaired appetite and sleeplessness arising from some cause of mental anxiety too trivial to create alarm. It may proceed either from sudden impulse or be the result of long deliberation; it may be committed with or without apparent motive; it may proceed either from a delusive or a real apprehension of poverty, disgrace or ruin. Suicide from sudden impulse is not uncommon; persons have been known to destroy themselves who had not previously manifested any symptoms of *intellectual* disorder. Sir Charles Bell relates that one of the surgeons of the Middlesex Hospital was in the habit of going every morning to be shaved by a barber in the neighborhood, who was known as a steady industrious man. One morning the surgeon was conversing with the barber about an attempt at suicide which had recently occurred, and the surgeon observed that the man had not cut his throat in the right place. The barber then inquired, casually, where the cut should have been made; the surgeon pointed on his neck to the situation of the carotid artery. The barber in a few minutes retired to the back of his shop, and there cut his throat with the razor with which he had been shaving the surgeon; he had wounded the carotid artery in the place indicated by the surgeon, and died before any assistance could be rendered to him. Although this act was quite sudden and unexpected, it may have been only the final result of a delusion which had long existed, concealed from others, in the mind of this man—just as the sight of a weapon has often led to its use for the purpose of suicide.

Dr. Forbes Winslow remarks "that a person is often impelled to self-destruction by the overpowering and crushing influence of a *latent* delusion that has for weeks, and perhaps months, been pressing like an incubus on his imagination. Patients sometimes confess that they have been under the influence of monomaniacal ideas and terrible hallucinations for a long period without their existence

[1] [So much of this chapter as relates to the subject of suicidal mania and suicide is taken from Dr. Taylor's "Principles and Practice of Medical Jurisprudence."—P.]

being suspected even by their most intimate associates. "For six months," writes one patient, "I have never had the idea of suicide, night or day, out of my mind. Wherever I go an unseen demon pursues me, impelling me to self-destruction! My wife, friends, and children observe my listlessness and perceive my despondency, but they know nothing of the worm that is gnawing within.' Is this not a type of cases more generally prevalent than we imagine?" ("Obscure Diseases of the Brain," p. 265.) The want of power to shake off this delusion shows clearly that the mind is not in a healthy state—that the person is not sane.

Men who are thus mentally affected generally retain a certain control over their actions; thus they will voluntarily give up pistols, razors, or other weapons by which suicide might be perpetrated. A friend suffering from an attack of suicidal mania, while residing with me in Paris in 1830, delivered to me one night his razors, with a request that I would lock them up and keep them out of his sight, as otherwise he feared that he might destroy himself at any moment. Although he recovered from this attack, he had a relapse, and subsequently destroyed himself by taking prussic acid. Persons laboring under this form of monomania may go to bed perfectly collected, and suddenly awake in the night and destroy themselves by hanging, drowning, or precipitating themselves from a window. These cases probably depend on the persistence of some horrible hallucination which may have occurred in dreaming, and in the reality of which they cannot at the time disbelieve. Some years ago I saw a case of this kind in a man who was a patient at Guy's Hospital. The man attempted to strangle himself in the dusk of the evening with the cord of his bed; he was fortunately saved, and he recovered after having been nearly strangled. On asking him what led him to the attempt he told me that he suddenly saw a large black figure round his bed (the devil), which by signs and words compelled him to try and hang himself. It appeared that this man had previously shown symptoms of suicidal monomania.

When the impulse to suicide is checked by any great moral shock it may suddenly disappear. My friend, to whose case I have above referred, recovered under the shock from the sudden outbreak of the French Revolution in 1830. The danger to which he was exposed, while residing with me in Paris in the early days of the revolution, for a time at least dispelled the idea of self-destruction. Pinel mentions the case of a man who while hurrying to one of the bridges of Paris to throw himself into the river, was suddenly attacked by robbers; he made a desperate resistance, and escaped from them. He could not then account for his being where he was, and quietly walked home, having abandoned the intention of destroying himself. There is but little doubt that many acts of suicide would be prevented if circumstances only gave a slight opportunity for reflection; the mind would then be diverted from the dominating idea of self-destruction.

Suicidal mania is susceptible of being spread by imitation, especially when the mode of self-destruction adopted is accompanied by

circumstances of a horrible kind, or by such as excite great notoriety. The sight of a particular spot where an act of suicide has been already committed will often induce a person, who may hitherto have been unsuspected of any such disposition, at once to destroy himself. Thus a second and a third suicide took place from the Monument near London Bridge, soon after the first had occurred. Acts of incendiarism have been also observed to lead to arson in the same or in a neighboring district; but there is here a criminal as well as a monomaniacal imitation, and experience has clearly shown that there is no check so effectual for this as the rigorous application of the law.

Does the Act of Suicide Necessarily Indicate the Existence of Insanity?—Suicide is often set down as furnishing positive evidence of insanity: a doctrine which commonly finds expression in the verdicts of coroners' juries—not so much from the fact of insanity being thereby established, as that any verdict but this would weigh heavily not on the deceased, but on his surviving relations and friends.

In the opinion of Dr. Davey, the suicidal propensity is in all cases and under all circumstances a positive sign or symptom of disordered mind (insanity). ("Journal of Mental Science," April, 1861, p. 110.) This, however, is not in accordance with the views of many psychologists. In one case a person will fancy that he is constantly watched—that he is oppressed and persecuted by all around him, and that his prospects in life are ruined when, on the contrary, his affairs are known to be flourishing: he destroys himself under this delusion, in order to avoid imaginary evils. In cases of this description, whether arising from a momentary insane impulse or from delusive reasoning, there cannot be a doubt that the act is one of insanity. It is very different, however, when a real motive is obviously present—as when a person destroys himself to avoid actual disgrace or impending ruin. The motive is here based on a reality—on a real estimate of the man's position; the results are clearly foreseen, and the suicide calculates that the loss of life would be to him a smaller evil than the loss of honor and fortune. It may be urged that a motive of this kind is itself delusive, and will appear insufficient to the minds of most men; but what known motive is there sufficient to account for parricide, infanticide, or any other crime of the like horrible nature? It appears to me, we must allow either that all crime is the offspring of insanity, or that suicide, like infanticide, may be the deliberate act of a *sane* person. To affirm that suicide is always *per se* evidence of insanity is to affirm, substantially, that there is no criminality in self-murder: for it is impossible to regard that act as a crime which is committed under a really insane delusion. (See "Ann. d'Hyg.," 1831, vol. i. p. 225; for some additional remarks on this subject see Lectures by Dr. Jamieson, "Med. Gaz.," vol. 46, p. 523, and "Jour. Psychol. Med.," 1850, p. 19.)

The law of England very properly treats suicide as a felony; those who have attempted and failed in its perpetration are held to be sane and responsible agents, unless there should be clear evidence of their

(intellectual) insanity from other circumstances; and it is certain, that the evidence required to establish this must be much stronger than that sometimes admitted in cases of homicide.

Some singular medico-legal cases have occurred, involving the question how far the act of attempting suicide is indicative of insanity. In the case of the *Queen* v. *Rumball* (Cent. Crim. Court, May, 1843), a woman was charged with attempting to drown her child. It appeared in evidence that she had fastened her child to her dress, and thrown herself into a canal with the intention of destroying herself. She was rescued, and was subsequently tried and convicted of the felony of attempting to murder her child by drowning. Had she not been rescued, and had she succeeded in her purpose of self-destruction, it is probable that the verdict of a jury would have been, as it so frequently is on these occasions—"Temporary insanity." In *Reg.* v. *Furley* (Cent. Crim. Court, April, 1844), the prisoner was convicted of murder under similar circumstances, but the sentence was subsequently commuted. In *Reg.* v. *Gathercole* (1839), a man was charged with manslaughter, under the following singular circumstances. The prisoner threw himself into a canal for the purpose of drowning himself; the deceased, who was passing, jumped in and rescued him, but by some accident he was himself drowned in the humane attempt. The defence was, that the prisoner was at the time insane, and therefore not responsible for the death of the person who attempted to save him; but this was negatived, and the prisoner was convicted. So if a man intending to shoot himself fails, and by accident shoots a bystander, he will be held responsible, unless there be a clear proof of intellectual insanity; the act—the attempt itself, taken alone, will not be admitted as evidence.

If two persons agree to commit suicide, and one only dies, the survivor is guilty of murder. In *Reg.* v. *Fisher* (Taunton Spring Assizes, 1865), the prisoner was indicted for the murder of his wife by poison. It appeared from the evidence that they had been married fourteen years, and had lived happily together. The man was well-conducted and industrious; but he fell into a desponding state of mind, and thought that by the introduction of machinery into his trade of a shoemaker, he and his wife would be reduced to poverty. He communicated this feeling to his wife; they pondered over it together, and they both agreed to destroy themselves. The man procured a quantity of laudanum, and shared it with his wife; they took about an ounce each. The wife died, but owing to early vomiting the prisoner recovered. It was proved that before marriage the prisoner had been confined in a lunatic asylum; still, he had perfectly recovered, and just before this occurrence it was observed that both husband and wife were low and dispirited. There was then no indication of intellectual insanity about him; and the only delusion appeared to be that machinery would ruin his trade. In answer to the charge he said, "According to my notion I am not guilty of murder." The case is like that of many others—of two poor, weak-minded, infatuated people agreeing to commit suicide.

Under the direction of the judge, the jury returned a verdict of guilty.

Suicide in Relation to Life-Insurance.—It is well known that according to the rules of some English offices a policy of life-insurance is forfeited by the act of suicide; but supposing it to have been really an act of insanity, it has been doubted whether the policy would be legally forfeited. In an equitable view the policy should not be forfeited under these circumstances, any more than if the party had died accidentally by his own hands. The condition equitably implies that the assured party puts himself to death *deliberately* and not unconsciously through a delusion as the result of a fit of delirium or an attack of insanity. This question was raised in the case of *Borradaile* v. *Hunter* (Dec. 1841). An action was brought to recover the amount of a policy of insurance effected on the life of a clergyman who threw himself into the Thames from Vauxhall Bridge, and was drowned. The whole case turned upon the legal meaning of the words "*die by his own hands*," which formed the exception in the proviso to the payment of the policy. At the trial of the case, Erskine, J., directed the jury, that if the deceased threw himself into the river knowing that he should destroy himself and intending to do so, the policy would be void; they had further to consider whether the deceased was at the time capable of distinguishing between right and wrong, or, in other words, whether he had a sufficient knowledge of the consequences of the act to make him a felo-de-se. The jury found that the deceased threw himself into the water intending to destroy himself, and that previously to this act there was no evidence of insanity. They were then directed to take the *act itself* with the previous conduct of the deceased into consideration, and say whether they thought he was at the time capable of knowing right from wrong. They then found that he threw himself from the bridge with the intention of destroying himself, but that he was not then capable of judging between right and wrong. The jury were here evidently perplexed with the strict meaning of the words right and wrong; the first part of the verdict made the case one of felo-de-se, the last part made it one of insanity. The verdict was entered for the defendants, *i. e.*, that the deceased was a felo-de-se, and that the policy was therefore void.

This case was subsequently argued before the four judges in the Common Pleas (May, 1843). It was then contended for the plaintiff, that according to the terms of the policy there must have been an *intention* by the party assured to "die by his own hand," and that an insane person could have no controllable intention. The judges differed; three thought there was no ground for saying that the deceased was affected by an uncontrollable impulse; on the contrary, the jury had found that he threw himself into the river knowing that he should destroy himself, and intending to do so. In their opinion the act was one of felo-de-se, and the policy was void. Tindal, C. J., considered, that the verdict should be for the plaintiff, thereby leading to the inference that the act of suicide was in this case the result of insanity, and not of a felonious killing, to which

alone he considered the exception in the proviso should apply. It is probable if the term "*suicide*" had been inserted in the policy, instead of the words "*die by his own hands*," that the decision would have been in favor of the plaintiffs; for to vitiate a policy from an accidental result depending on an attack of insanity and *flowing directly from that attack*, is virtually vitiating it for the insanity itself! In this respect, it appears that the learned Chief Justice took a sound and equitable view of this question, so important to the interests of those who have insured their lives. It is impossible for a man to enter into a contract *against an attack of insanity*, any more than against an attack of apoplexy! The jury found that the deceased was irresponsible for the act, and it is clear that the insurers and insured intended no more by using the terms "die by his own hands," than the act of suicide. By this decision, therefore, the insurers received the benefit of a wider interpretation of the terms than that which either party could have foreseen or contemplated.

The question was again raised in the case of *Schwabe* v. *Clift*, Liverpool Summer Assizes, 1845. ("Med. Gaz." vol. 36, p. 826.) The deceased, whose life was insured, destroyed himself by taking sulphuric acid; there was clear evidence of his being at the time in a state of insanity. The jury here, under the direction of Creswell, J., returned a verdict for the plaintiffs, thereby deciding that the policy was not vitiated by the mere act of *suicide*. The learned judge held that to bring the case within the terms of the exception, the party taking his own life must have been, at the time of the act, *an accountable moral agent and able to distinguish right from wrong*. In this instance the term used in the policy was "suicide," which according to the learned judge meant "a *felonious* killing." Supposing that the insured party was killed by voluntarily precipitating himself from a window while in a fit of delirium from fever, this would be an act of suicide or dying by his own hand; but it surely cannot be equitably contended that his heirs should lose the benefit of the insurance in consequence of an event depending on an accidental attack of a disease which no one could have foreseen, and against which no one could guard? If this principle be not admitted, the decision which must necessarily follow would appear to be against all equity; if it be admitted, then it must apply equally to every case of mental disorder, the proof of the existence of this resting with those who would benefit by the policy.

On an appeal, the judgment in this case was however reversed, the judges again differing. It was argued for the insurers, that if a man retained just enough of intelligence to produce death by competent means, but was deprived of all *moral sense*, the policy was void. Against this view it was urged by one of the judges, that whether the intellect was destroyed altogether, or only partially, it could make no difference. If death was the result of disease, whether by affecting the senses or by affecting the reason (thus leading to suicide), the insurance office was liable under the policy. If the act was not the act of a sane and reasonable creature, it was not an act of suicide within the meaning of the proviso. Those judges who

adopted the opposite view held that the meaning of the words, as introduced into the exception was—if the party should kill himself *intentionally:* the words were considered to include all cases of voluntary self-destruction. If a party voluntarily killed himself, it was of no consequence whether he was sane or not. The majority of the court held this view, and a new trial was granted. Had all the judges been present to give their opinions, the decision might have been different; for five had expressed themselves at various times in favor of the view that the term suicide in policies applies, as it ought to do, only to cases in which there is no evidence of insanity; while four had declared their opinion to be, that it includes all cases of "intentional" self-killing, whether the person be sane or insane. It is difficult to understand how a man in a fit of delirium or insanity can be said to kill himself voluntarily or intentionally. Will and intention imply the judgment of a sane man in regard to civil and criminal acts, but a delirious or really insane person acts under a delusion; and as the law would hold him irresponsible in regard to others, his representatives should not suffer for an act which he was himself incapable of controlling. (See "Law Times," July 18, 1846, p. 342.)

The decision in this case is of great importance to persons whose lives are insured, for it may be made to govern others; and on this principle, a man attacked with delirium, and who during the fit precipitated himself from a window and was killed, would be declared a suicide within the meaning of the proviso, and a policy of insurance on his life would be *ipso facto* void. It will be perceived that the law, as interpreted by a majority of the judges, is that whenever a person destroys himself *intentionally*, whatever may be the state of his mind, the policy becomes void. It also appears that, according to this legal view of the question, a person may have and exercise his intention although undoubtedly *insane*. Whether he has been found so under a commission, or a verdict to this effect has been returned by a coroner's jury, is therefore unimportant. It must be proved by those who would benefit by the policy, that the party died from his own act without *intending* to destroy himself. If a man take poison, or shoot himself, or commit any other act leading to his own death, it must be shown that it was the result of *accident*, and not of design on his own part. Some Insurance offices now insert in the contract a proviso by which, whether the person be found *felo-de-se* or not, the policy shall be forfeited; but they reserve to themselves the power of returning a part or the whole value of the policy, calculated up to the day of death. In the meantime they have the power of taking the full benefit arising from an act of suicide committed during a fit of delirium or insanity, in which, as medical men know, there can exist no controllable intention, no freedom of judgment, and no real exercise of will. (See case "Prov. Med. Jour.," Aug. 9, 1818, p. 428.) [See chap. on Life Insurance, post, p. 721 *et seq.*]

There is a form of suicide not unlikely to present itself for consideration, namely, where a man, in the habit of using a powerful

drug for medicinal purposes, takes a large dose while in a state of intoxication and dies. In May, 1857, a *Mr. George Fife* died from an overdose of morphia, and it was proved to the satisfaction of the jury that this must have been taken while he was intoxicated. In such a case a man may have no sane intention of destroying himself, yet he dies by his own hands. As drunkenness does not excuse or justify any act of homicide, so it would not probably be allowed to affect the question of suicide; and death under such circumstances would probably be held to be a felonious killing.

From these cases one fact is clear—the act of suicide is not treated by the law as a necessary *proof of insanity;* and therefore the ingenious arguments which have been held on this subject have but little interest for a medical jurist in a practical view. It has been elsewhere stated that acts of suicide have been mistaken for homicide, merely because the deceased had expressed no *intention* of destroying himself, and had manifested no disposition to the act by his previous conduct. This, however, is a fallacious view of the subject, since suicide from sudden impulse is by no means unfrequent; and even when the act bears about it marks of deliberation, it is not to be expected that a person should previously announce his intention, for this would be a sure way of defeating his object.

If, as it is alleged, the act of suicide was in all cases the offspring of insanity, suicide should be frequent among the insane. Experience, however, is not in favor of this assumption. The Report of the Commissioners of Lunacy for 1850 shows that there were then confined as lunatics 15,079 persons, while the suicides for the year among this large number amounted to only eight, of which six were perpetrated by strangulation. As mechanical restraint is either abolished or considerably diminished in most asylums, lunatics have now much more liberty than formerly, and yet suicides among them are comparatively rare. This favorable result must be in part ascribed to active superintendence and watching.

The tendency to suicide appears to be in some cases hereditary. Dr. Burrows relates an instance in which this propensity declared itself through three generations: in the first, the grandfather hanged himself: he left four sons—one hanged himself, another cut his throat, and a third drowned himself in an extraordinary manner, after having been some months insane: the fourth died a natural death, which, from his eccentricity and irregularity of mind, was scarcely to be expected. Two of these sons had large families: one child of the third son died insane, two others drowned themselves, another became insane and made the most determined attempts on his life. Several of the progeny of this family, being the fourth generation, when they had arrived at puberty, showed a tendency to the same fatal propensity.

Puerperal Insanity.—Mania may present itself in other forms than those hitherto considered. Women who have been recently delivered are liable to sudden attacks, in which a disposition to murder their offspring is the most marked symptom. This has been long known and recognized by physicians as "puerperal mania."

The disorder seldom attacks a woman before the third day—often not for a fortnight, and in some instances not until several weeks after delivery. Out of ninety-two cases, Dr. Simpson observed that the attack occurred in twenty-one between the fifth and the fifteenth day. ("Med. Times and Gaz." Sept. 1, 1860, p. 201.) The most frequent period is at or about the commencement of lactation, and between that and the cessation of the uterine discharges (lochia). According to Esquirol, it is generally preceded or attended by a suppression of the lochia and milk. The late Dr. Ashwell remarked that undue lactation might give rise to an attack of mania under which the murder of the offspring might be perpetrated. ("Diseases of Women," p. 732. See the case of *Reg.* v. *Lacey*, Nottingham Summer Assizes, 1858.) It may also come on after forced or voluntary weaning.

The *symptoms* do not differ from those of mania generally but it may assume any of the other forms of insanity: and in one-half of the cases, it may be traced to hereditary tendency. There is a childish disposition for harmless mischief. The woman is gay and joyous, laughing, singing, loquacious, inclined to talk obscenely, and careless of everything around. She imagines that her food is poisoned; she may conceal the suspicion, and merely avoid taking what is offered to her. She can recognize persons and things; and can, though perhaps she will not, answer direct questions. Occasionally there is great depression of spirits with melancholia. These facts are of some importance in reference to cases of alleged child-murder. This state may last a few hours, or for some days or weeks. The murder of the child is generally either the result of a sudden fit of delirium, or a sudden impulse, with a full knowledge of the wickedness and illegality of the act; so that the legal test of responsibility of a knowledge of right and wrong cannot be applied to such cases, except on the assumption that insanity already exists and taints the consciousness of the individual. (p. 686.) A woman has been known to request her attendants to remove the child, but she has afterwards taken an opportunity to destroy it. Such cases are commonly distinguished from deliberate child-murder by there being no motive, no attempt at concealment, nor any denial of the crime on detection. There is in general a full consciousness of the illegality of the act, but apparently an entire want of power to control the murderous feeling.

Women in the *pregnant* state have been known to perpetrate murder apparently from some sudden perversion of their moral feelings: there has been probably latent intellectual disturbance, but not sufficient to attract the notice of friends. There is a great sympathy between the uterine organs and the brain, which may account for the occurrence of such cases; but I am not aware that irresponsibility on the ground of insanity has been admitted in this country under these circumstances.

Pyromania. Propensity to Incendiarism.—This is described as a variety of monomania in which there is a morbid disposition of mind leading to impulsive acts of incendiarism without any motive.

It is a condition not specially recognized by English jurists or in English courts of justice.

Kleptomania. Propensity for Thieving.—This term has been applied by Marc to that form of monomania which is said to manifest itself by a propensity to acts of theft. It is alleged by him and others that this propensity has often shown itself in females laboring under disordered menstruation, or among those who were far advanced in pregnancy—the motive being the mere wish of possession. Pregnancy, according to him, should be a good exculpatory plea when a well-educated woman, of strictly moral conduct, steals some unimportant article of no value compared with her worldly means and position in society. There are several instances on record showing that well-educated persons moving in a respectable sphere of society have been guilty of petty acts of theft. The articles taken have been valueless compared with their means. Instances of this kind have been brought before our Police-courts, and this motiveless impulse to theft has been occasionally pleaded; but in most of them the following facts have been clearly established by evidence: 1. A perfect consciousness of the act and of its illegality. 2. The article, though of trifling value, has still been of some use to the person—thus women have stolen articles either adapted to female use, or on which money could be raised. 3. There have been art and precaution in endeavoring to conceal the theft; and 4, either a denial of the act when detected, or some evasive excuse. When circumstances of this kind are proved, either the parties should be made responsible, or theft should be openly tolerated. The evidence of a disordered state of mind should not be allowed to depend on the nature of the act, or every morally depraved person might bring forward a plea of insanity for any crime or offence. When the plea of insanity is raised in respect to other cases of stealing, the rule appears to be (per Tindal, C. J.), that there should be proof that the prisoner was incompetent to know that the particular act in question was a wrong one. (*Reg.* v. *Vaughan*, Monmouth Sum. Ass., 1844.)

Dipsomania. Drunkenness. Civil Responsibility of Drunkards.—This state, which is called in law frenzy or "*dementia affectata*," is regarded as a temporary form of insanity. Jurists and legislators have differed widely respecting the degree to which drunkards should be made responsible for their acts. When the mind of a man is completely weakened by *habitual* drunkenness, the law infers irresponsibility, unless it plainly appears that the person was at the time of the act, whether of a civil or of a criminal nature, endowed with full consciousness and reason to know its good or evil tendency. Any *deed* or *agreement* made by a party when drunk is not invalidated by our law, except in a case in which the intoxication has proceeded so far as to deprive him of all consciousness of what he is doing; and a Court of Equity will not interfere in other cases, unless the drunkenness was the result of collusion by others for the purposes of fraud. When the drunkenness has occasioned a temporary loss of the reasoning powers, the person is incapable of

giving a valid consent, and therefore cannot enter into a contract or agreement; for this implies *aggregatio mentium*, *i. e.* a mutual assent of the parties. Partial drunkenness therefore, provided the person knew what he was about, does not vitiate a contract or agreement into which he may have entered. Thus the law appears to define two states in drunkenness:—one in which it has proceeded to but a slight extent, and it is considered that there is still a power of rational consent; another in which it has proceeded so far that the person has no consciousness of the transaction, and therefore can give no rational consent. The proof of the existence of this last state would render all the civil acts of a person void. A confession made by a man while in a state of drunkenness is legally admissible as evidence against him and others, provided it be corroborated by circumstances. In a case tried a few years since the prisoner confessed, while drunk, that he had committed a robbery and murder which had taken place some time before, but of which he had not been suspected. He mentioned a spot where the property of the murdered person had been concealed by him, and the whole of the circumstances of the murder. The property was found as he had described it, and the case was clearly brought home to him, chiefly by collateral evidence from his own confession. He was convicted. In a case tried at the Central Criminal Court, in October, 1849, a man pleaded his drunkenness at the time of his first marriage as a defence to a charge of bigamy. There was some evidence to show that he was partly intoxicated when the ceremony was performed; it was proved, however, that he was sufficiently conscious of the whole of the proceedings, and he was convicted. ("Med. Gaz." vol. 44, p. 762.)

Criminal Responsibility of Drunkards.—When *homicide* is committed by a man in a state of *drunkenness*, this is held to be no excuse for the crime. If voluntarily induced, whatever may be its degree, it is not admitted as a ground of irresponsibility, even although the party might not have contemplated the crime when sober. (*Reg.* v. *Reeves*, Derby Winter Assizes, 1844.) Thus it appears that when the state of drunkenness is such that any civil act would be void, a person may still be held legally responsible for a crime like murder. Some judges have admitted a plea of exculpation when the crime has been committed in a state of frenzy arising from *habitual drunkenness;* but even this is not general. The question whether the person was or was not drunk at the time of committing a crime may be, however, occasionally of some importance. It was held by Patteson, J., that although drunkenness is no excuse for any crime whatever, yet it is of very great importance in cases in which there is a question of *intention*. A person may be so drunk as to be utterly unable to form any intention at all, and yet he may be guilty of very great violence. (*Reg.* v. *Cruse*, 8 C. & P. p. 546.) If the drunkenness has produced a diseased state of the mind, then a criminal act perpetrated by the person, might admit of exculpation either on the ground of insanity or of the want of sane consciousness at the time of the act: but the difficulty is to prove in such cases the ex-

istence of actual disease to a sufficient degree to render the person irresponsible in a legal sense. When it is a question whether the accused was actuated by malice or not, a jury may under certain circumstances be required to take the fact of drunkenness into their consideration, and this may have some influence upon their verdict. While, then, drunkenness does not furnish any excuse for a crime, it may become material with reference to the *intent* with which an act has been perpetrated. ("Law Times," Sept. 27, 1845, p. 542.) It is obvious that if drunkenness were to be readily admitted as a defence, three-fourths of the crimes committed in this country would go unpunished!

In cases in which the head has sustained any physical injury, as among soldiers and sailors, drunkenness, even when existing to a slight extent, produces sometimes a fit of temporary insanity, leaving the mind clear when the drunken fit is over. The law makes no distinction between this state and ordinary drunkenness, although juries occasionally show by their verdicts that some difference ought to be made. (See cases in Alison, p. 653.)

Hallucinations and illusions are a common effect of drunkenness, and may lead to the commission of criminal acts. Marc relates a case where two friends being intoxicated, the one killed the other under an illusion that he was an evil spirit. The drunkenness of the accused was held to have been voluntary: and he was condemned to ten years' imprisonment with hard labor. A case of this description (*Reg.* v. *Patteson*) was tried at the Norfolk Lent Assizes, 1840. A man while intoxicated killed his friend, who was also intoxicated, under the illusion that he was some other person who had come to attack him. It is reported that the guilt of the prisoner was made to rest upon the fact, whether, had he been sober, he would have perpetrated the act under a similar illusion! As he had voluntarily brought himself into a state of intoxication, this was no justification: he was found guilty of manslaughter, and sentenced to two months' imprisonment.

The proof of drunkenness may fail, but still, if the person charged with the death acted under an illusion, he will be acquitted. In *Reg.* v. *Price* (Maidstone Summer Assizes, 1846), it was proved that the prisoner, who had been on friendly terms with deceased, was going home at night, having previously been in company with deceased at a public house. According to the prisoner's statement, a man sprang upon him from the hedge by the roadside, and demanded his money and his watch, or else he said he would have his life; the prisoner closed with and beat him severely, inflicting such injuries that he died shortly afterwards. The supposed robber turned out to be his friend, and it was believed that he had made an attempt to rob the prisoner jokingly; the result, however, was that the attempt had ended in this fatal manner. The prisoner throughout told the same story, and there did not appear to be the slightest ground for suggesting that it was untrue. Coltman, J., after hearing the evidence of the witnesses, said it appeared to be quite clear that the prisoner had acted under an impression that he was protecting his own life

from the attack of a robber, and under such circumstances he could not be held to be criminally responsible. The jury accordingly returned a verdict of *not guilty*, and the prisoner was discharged.

An excessive indulgence in habits of drinking does not necessarily derange the mind, but it practically renders a person unfit for the control of himself and the management of his property. It is therefore a question whether it would not be for the benefit of such persons and of those dependent on them, if the law interfered and placed them under the same restraint as those whose minds had been actually rendered unsound by this pernicious habit. [The law does so interfere in Pennsylvania—vide note to p. 667 ante.—P.]

Delirium Tremens.—This is a disordered state of mind which proceeds from an abuse of intoxicating liquors. Habitual drunkenness appears to be the predisposing, while abstinence from drink is the immediately exciting cause. Thus, the disorder frequently does not show itself until the accustomed stimulus has been withdrawn for a certain period. It commences with tremors of the hands, by which it is known from ordinary delirium and restlessness; and the individual is subject to hallucinations and illusions, sometimes of a horrible kind, referring to past occupations or events. The patients are often violent, and prone to commit suicide or murder—more commonly the former; hence they require close watching. Persons laboring under this disorder are incompetent to the performance of any civil act, unless the mind should clear up before death; they are not responsible for criminal acts committed while they are laboring under an attack. Acquittals have even taken place on charges of murder, when there was deliberation as well as an apparent motive for the act. Thus then, although this disorder may have been voluntarily brought on by habitual drunkenness, the law admits it as a sufficient plea for irresponsibility, while in a case of confirmed drunkenness it rejects the plea. In delirium there is a formed disease of the brain, while voluntary drunkenness merely produces a temporary disturbance of its functions. In one trial the evidence showed that homicide had been committed by the accused while he was laboring under an attack of delirium tremens. (*Reg.* v. *Simpson*, Appleby Summer Assizes, 1845.) The prisoner's mind had become unsettled from this disorder, brought on by habitual drunkenness. In another case the plea was also admitted by the jury, although it was scarcely supported by the medical evidence. (*Reg.* v. *Watson*, York Winter Assizes, 1845.) In a case tried at Liverpool Assizes (*Reg.* v. *Burns*, Aug. 1865), a man laboring under delirium tremens, was charged with the murder of his wife. After the act he appeared calm, and said that he knew perfectly well what he had done; "his wife was in league with men who were hidden in the walls." Baron Bramwell, in charging the jury, said, "There were two kinds of insanity by reason of which a prisoner was entitled to be acquitted; and said that probably the jury would not be of opinion that the prisoner knew not the quality of his act; that it would kill, and was wrong; but it was still open to them to acquit him if they were of opinion that he was suffering from a delusion leading him to sup-

pose that which, if true, would have justified him in the act. One more remark he would make, viz: that drunkenness was no excuse, and that a prisoner cannot by drinking qualify himself for the perpetration of crime; but if through drink his mind had become substantially impaired, a ground of acquittal would then fairly arise." The prisoner was acquitted.

[Many of the States of the Union have statutes defining murder, and dividing it into degrees. Where this is the case, the existence of intoxication and its effect upon the mind of one charged with homicide become of much importance, upon the question of intent and premeditation.

The "American Law Journal," for October, 1848 (p. 145), contains the following admirable article upon this subject.

"The mental *status* produced by drunkenness is frequently determined by the testimony of physicians. But the effect of that state of mind, voluntarily produced, in relieving from responsibility for crime, is to be determined by the courts. Sir William Blackstone quotes the language of Sir Edward Coke, who declares that 'a drunkard who is *voluntarius dæmon*, hath no privilege thereby: but what hurt or ill soever he doth, his drunkenness doth aggravate it.' And Sir William adds, that 'the common law of England, considering how easy it is to counterfeit this excuse, and how weak an excuse it is, though real, will not suffer any man thus to privilege one crime by another.' (Plow. 19, 4 Bl. 26. 1 Inst. 247.) The effect of this severe rule of the common law is frequently to fix upon the accused the legal guilt of a crime of much greater enormity than he ever intended to commit. But the great value of the common law is that it is founded upon far-reaching views of policy, which look beyond the justice of the particular case, for the purpose of protecting the higher interests of society. It seems to be conceded as a principle of the common law that a man who wilfully perpetrates an unlawful act is responsible for all its consequences. Hence, a man who accidentally kills another by discharging a gun at a sheep, or a domestic fowl, for the purpose of stealing it, is guilty of murder at common law, although his mind never in fact assented to the enormity of taking the life of a fellow being. On the same principle, it would seem that a man who voluntarily puts himself in a state of mind which causes him to take the life of another is guilty, by construction, of the common law crime of murder.

"The hardship of this rule has sometimes caused the scales of justice to vibrate in its application to capital cases. In 1819, Mr. Justice Holroyd, in *Rex* v. *Grindley*, under the influence of his feelings, held that 'though voluntary drunkenness cannot excuse from the commission of crime, yet where, as upon a charge of murder, the material question is whether the act was premeditated, or done only with a sudden heat and impulse, the fact of the party being intoxicated is a circumstance proper to be taken into consideration.' (Lewis's Crim. L. 602; 1 Spear's 384.) This decision has doubtless had its influence elsewhere. The error of Mr. Justice Holroyd consisted in supposing that at *common law* it was always 'a material

question' in murder 'whether the act was *premeditated*' or not. We have seen that *premeditated* killing was not always essential to constitute the crime; otherwise it never could have been held murder to kill a human being accidentally in the premeditated perpetration of larceny. There is some reason to believe that subsequent reflection brought the mind of that enlightened judge to an acknowledgment of his error. In 1835, in the case of *Rex* v. *Carroll*, Mr. Justice Parke, after citing the case of *Rex* v. *Grindley*, decided by Mr. Justice Holroyd, remarked that 'highly as I respect that late excellent judge, I differ from him, and my brother Littledale agrees with me. He once acted upon that case, but afterwards retracted his opinion, and there is no doubt that case is not law. I think that there would be no safety for human life if it were to be considered as law.' (7 Car. and Payne, 145; 32 Eng. Com. Law, 471; Lewis's Crim. Law, 602, note.)

"Mr. Justice Story, in the *United States* v. *Drew*, took a distinction on the effect of intoxication which, on account of its humanity, has received general commendation. That learned judge held that insanity, of which the remote cause is habitual drunkenness, is an excuse for an act done by the party while so insane, *but not at the time under the influence of liquor*. The crime (to be punishable) must take place during a fit of intoxication, and be the immediate result of it, and not a remote consequence superinduced by the antecedent drunkenness of the party. In cases therefore of *delirium tremens* or *mania a potu*, the insanity excuses the act, *if the party be not intoxicated when it is committed*. (5 Mason, 28; Am. Jurist, vol. 3, p. 5 to 30; *Burnet* v. *The State*, Martin & Yerger, 133; *Cornwell* v. *The State*, ib. 147; Lewis's Criminal Law, 602, note.)

"Thus stands the law on this question where the trial is for murder, as defined by the common law, uninfluenced by any statutory division into degrees. But the unreasonableness of fixing the penalty of death upon one whose whole guilt, so far as his mind was considered, consisted of an intention to steal, or the criminal folly of becoming intoxicated, induced many States of this Republic to enact statutes dividing murder into degrees, according to the attending circumstances. By the act of 22 April, 1794 (Pennsylvania), no crime whatever, thereafter committed (except murder in the first degree) was punishable with death. And 'all murder which shall be perpetrated by means of poison, or by lying in wait, as *by any other kind of wilful, deliberate and premeditated killing*, or which shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery or burglary, shall be deemed murder of the first degree; and all other kinds of murder shall be deemed murder of the second degree.' By this act it is evident that the legislature considered that the intention to commit either of the high crimes of *arson, rape, robbery, or burglary* was to be regarded as equal in point of enormity to an intention to kill, and involved the perpetrator in the constructive guilt of wilful, deliberate, and premeditated murder, if the death of a human being was caused by the perpetration or attempt to perpetrate either of the high crimes thus enumerated in

the statute. But not so with the crime of larceny, drunkenness, or any other crime not enumerated. A death happening, *without an intention to kill*, in the perpetration of any of the non-enumerated offences, fell within the class of constructive murders, which, although punishable with death, at *common law*, was not thus punished *under the Act of* 1794. It follows that, under the benign provisions of that act, any circumstance may be given in evidence to show that the mind of the prisoner was deprived of the power to form a design—to deliberate—to premeditate. To admit this defence is not to privilege one crime by another, but to show that the ingredients expressly required by the statute to constitute the *capital* crime, did not exist, and that therefore the crime itself, to the degree alleged, could not have been committed.

"It is true that this defence should be admitted with great caution and examined by the jury with the most careful scrutiny. But it is certain that where it is satisfactorily shown that the mind of the accused, by reason of intoxication, or otherwise, was for the time so totally deranged as to be incapable of deliberation and premeditation, he cannot be guilty of a crime in which these operations of the mind are demanded by statute as essential in its constitution. The iron rule of the common law has nothing to do with such a case. The statute is imperative; and no judge can lawfully deprive a prisoner of his life under the pretext of a *constructive* deliberation, where the mind was incapable of such deliberation in fact. It is feared that some unfortunate prisoners have gone to the gallows for want of a proper explanation of the law in this respect. The judge, without due reflection, may occasionally adopt the language of the common law writers upon the effect of drunkenness, without noticing the material alterations produced by the statute. Such a course is perilous to the prisoner; and, it seems to us, equally perilous to the peace of mind of a conscientious judge.

"The first case which we have noticed in the books in which the alteration made by the Act of 1794, in this respect, was distinctly placed before the jury, is the case of the *Com.* v. *Dunlap*, who was convicted of the murder of his wife in Lycoming County in 1838. Judge Lewis, who presided on that occasion, in reference to the defence of insanity occasioned by intoxication, charged the jury as follows: 'To constitute murder of the first degree the statute expressly requires that the crime be "wilful, deliberate, and premeditated." Except in the case of murder which happens in consequence of actual or attempted arson, rape, robbery, or burglary, a deliberate intention to kill is the essential ingredient of murder of the first degree. Where this ingredient is absent; where the mind, from *intoxication*, or any other cause, is deprived of its power to form a design, with deliberation and premeditation, the offence is stripped of the malignant feature required by the statute to place it on the list of capital crimes: and neither courts nor juries can lawfully dispense with what the Act of Assembly requires.' Nearly ten years afterwards the same judge, after the fullest consideration, repeated the same doctrine in the *Com.* v. *Haggerty*, who was tried and con-

victed of murder of the first degree in Lancaster, in January, 1847.[1] ('Lewis's Crim. Law,' 405.) These instructions, it is true, did not save the lives of the prisoners, but it is no doubt satisfactory to all parties that they enjoyed the advantage of having the law humanely, and, as is believed, correctly expounded.

"In Virginia, where there is a statute dividing murder into degrees, like that of Pennsylvania, it is believed that a similar view of the law prevails. (*Com.* v. *Jones*, 1 Leigh, 612.)

"In Tennessee, Mr. Justice Reese, in 1843, in delivering the opinion of the Supreme Court upon a similar statute, has explained the law on this interesting question in language so clear and forcible as neither to be misunderstood or refuted. In the case of *Swan* v. *The State*, 4 Humphreys, 136, the judge makes the following remarks:—

"'The characteristic quality of murder of the first degree, and that which distinguishes it from murder in the second degree or any other homicide, is the existence at the time of the death of the assaulted, of a settled purpose and a fixed deliberate design on the part of the assailant that his assault should produce death. The length of time which the assailant deliberates on his intention is not material. Drunkenness is no excuse for or justification of crime. But although drunkenness in point of law constitutes no excuse or justification for crime, still, when the nature and essence of a crime is made by law to depend upon the peculiar state and condition of the criminal's mind at the time, and with reference to the act done, drunkenness, as a matter of fact affecting such state and condition of the mind, is a proper subject for consideration and inquiry by the jury. The question in such a case is, what is the mental *status?* Is it one of self-possession, favorable to the formation of a fixed purpose by deliberation or premeditation? or did the act spring from existing passion, excited by inadequate provocation, acting it may be on a peculiar temperament, or upon one already excited by ardent spirits? In such case it matters not that the provocation was inadequate, or the spirits voluntarily drank. The question is, did the act proceed from sudden passion or from deliberation and premeditation? To regard the fact of intoxication as meriting consideration in such a case, is not to be held that drunkenness will excuse crime, but to inquire whether the very crime which the law defines and punishes has in fact been committed. If the mental state required by law to constitute the crime be one of deliberation

[1] The case of Haggerty (Oyer and Terminer of Lancaster County) was a remarkable one, and the conviction of the defendant can only be accounted for by the existence of an intense popular feeling (in a community in which homicide was of very rare occurrence) caused by the number, and inoffensive character of his victims—an old man, named Fordney, his wife, and a little child. There was no motive for the act nor any evidence of a grudge; and there can be no doubt that the defendant was suffering from an attack of *mania a potu*. It was proved that under the delusion that his horse was the devil, he had shot him with a silver coin, just before or just after killing the persons mentioned. Yet notwithstanding this, and the charge of Judge Lewis, he was convicted of murder of the first degree and subsequently executed.—P.

and premeditation, and drunkenness or other cause excludes the existence of such mental state, then the crime is not excused by drunkenness, or such other cause, but has not in fact been committed.'

"We have drawn attention to the change in the law which the statutory division of murder into degrees produces, because many of the States have statutes of this character in operation. Our readers in Maine, New Hampshire, New Jersey, Michigan, Maryland, Virginia, Ohio, Tennessee, Alabama, and other States, where similar statutes exist, will not, we trust, complain of the space occupied in this discussion. It should always be remembered, in cases of the kind under consideration, that the doctrine that a man 'shall not be permitted to privilege one crime by another,' applies not to cases expressly provided for by statute. The principle of the common law gives place to the omnipotence of legislative enactment. Were this not so, the statutory amelioration of the code would be abortive, and a man might still be hung in Pennsylvania, and in some other States for *accidentally* killing another, when his intention was only to kill a fowl for the purpose of stealing it. The same principle which reduces the *unintentional* killing, in the perpetration of a larceny, to murder in the second degree, places in the same ameliorated category the act of killing by one whose mind, from extreme intoxication, was incapable of forming a murderous design."

Of course it is not to be understood from the foregoing article that drunkenness is any defence to the *factum* of guilt. It is only with reference to the question of intent, and with the view to reduce the *degree* of guilt from murder of the first degree, which in most of the States is punishable with death, to murder of the second degree or to manslaughter, the punishment of which is only imprisonment more or less extended, that evidence of intoxication is receivable. *Commonwealth* v. *Kilpatrick*, 7 Casey, 203; *Com* v. *Miller*, 17 Legal Intel. 276 (Ludlow, J.).

Nor will it be sufficient even for this purpose, unless the intoxication be so great as to render the prisoner unable to form a wilful, deliberate, and premeditated design to kill, or incapable of judging of his acts and their legitimate consequences. (*Keenan* v. *Commonwealth*, 8 Wright, 55; *Com.* v. *Miller; Ib.* v. *Kilpatrick*, supra).—P.]

Somnambulism.—This term applies to sleep-walking, but the medico-legal facts are chiefly confined to acts of violence perpetrated unconsciously during the state of sleep, in which it is presumed that malice and intention, the chief ingredients of crime, are wanting. It has been a contested question among medical jurists, how far a person should be held responsible for a criminal act perpetrated in that half-conscious state which exists when he is suddenly roused from sleep. There is no doubt that the mind is at this time subject to hallucinations and illusions, which may be more active and persistent in some persons than in others; but it is difficult to suppose, unless we imagine there is a sudden access of insanity, that a person should not recover from the delusion before he could perpetrate an act like murder. A remarkable case of this description, that of

Bernard Schelmaizig, will be found reported by Marc. (Op. cit. vol. 1, p. 56.) This man suddenly awoke at midnight, and saw, as he believed, a frightful phantom. He twice called out, "Who is that?" and receiving no answer, and imagining that the phantom was advancing upon him, he seized a hatchet which was beside him, attacked the supposed spectre, and it was found that he had murdered his wife. He was charged with the murder, but pronounced "not guilty" on the ground that he was not at the time conscious of his actions. A trial involving this question occurred in England. A peddler in the habit of walking about the country armed with a sword-stick, while lying asleep on the high road, was roused by a man accidentally passing, who seized and shook him by the shoulders. The peddler suddenly awoke, drew his sword and stabbed the man, who soon afterwards died. The peddler was tried for manslaughter. His irresponsibility was strongly urged by his counsel, on the ground that he could not have been conscious of an act thus perpetrated while in a half-waking state; and this defence was supported by the opinion of a medical witness. The prisoner was, however, found guilty. Under such circumstances, it was not unlikely that an idea had arisen in the prisoner's mind that he had been attacked by robbers, and therefore had stabbed the man in self-defence. (*Rex* v. *Milligan*, Lincoln Autumn Assizes, 1836.) In *Reg.* v. *Byron* (Winchester Winter Assizes, 1863), it was proved that a blow struck by a drunken person during sleep had caused death. The man was charged with manslaughter, under the following circumstances: The prisoner and deceased were soldiers in the same regiment, at Aldershot. The prisoner was in the street drunk, and deceased seeing this took him in to prevent his being arrested for drunkenness, and placed him on his bed. In this state he lay for some time quite drunk and insensible. In the course of the afternoon deceased went up stairs to see him; he tried to awaken him, when the prisoner suddenly kicked out, and his boot came violently against the lower part of the abdomen of deceased. The prisoner did not awake, but appeared then to be quite insensible. The deceased died, and it was found that the blow had caused rupture of the intestines. As in order to constitute the crime of manslaughter, it must be shown that the person charged did something knowingly, and the prisoner was not in a state to have known anything, it was held that there was no case against him, and he was acquitted. The act was committed during sleep, but the sleep appears to have been the sleep of drunkenness.

Somnambulism may become a subject of discussion under a contested policy of life-insurance, in which it may be provided that it shall be vitiated by suicide. If a man falls from a height and is killed while in a state of somnambulism, would this be considered an act of suicide within the meaning of the policy? The proviso against suicide has been held to include only *intentional* killing (case of *Borradaile* v. *Hunter*, "Med. Gaz.," vol. 36, p. 826), and in death under these circumstances the killing cannot be said to be intentional: it can only be regarded as an accident—therefore it is reasonable to infer that the policy would not be void. It is impossible,

however, to lay down any general rules relative to cases of this description; since the circumstances attending each case will sufficiently explain how far the act of murder or suicide had been committed during a state of somnambulism, or under an illusion continuing from a state of sleep.

The Deaf and Dumb.

It was formerly laid down in the old law-books, that a person born deaf and dumb was by presumption of law an idiot, but in modern practice, want of speech and hearing does not imply want of capacity either in the understanding or memory, but only a difficulty in the means of communicating knowledge; and when it can be shown that such a person has understanding, which many in this condition reveal by signs, he may be tried and suffer judgment and execution. (Archbold.) A deaf-and-dumb person is not incompetent to give evidence, unless he is also blind: he may be examined through the medium of a sworn interpreter who understands his signs. This condition does not justify restraint or interdiction, unless there is at the same time mental deficiency. A deaf-and-dumb person who has never been instructed, is altogether irresponsible for any action civil or criminal. Such a person cannot even be called on to plead to a charge, when there is reason to suppose that he cannot understand the nature of the proceedings. A deaf-and-dumb woman was charged with cutting off the head of her child. By signs she pleaded "not guilty," but she could not be made to understand the nature of the other proceedings against her. Upon this she was discharged, and subsequently confined as a criminal lunatic. In *Reg.* v. *Goodman* (Stafford Summer Assizes, 1841), a deaf-and-dumb man was convicted of theft and sentenced to imprisonment. He was made to comprehend the proceedings by signs and talking with the fingers. In *Reg.* v. *Brook* (Buckingham Summer Assizes, 1842), the prisoner could read and write well. He was charged with feloniously cutting and stabbing. The proceedings were reported to him in writing. He was convicted, and the judge (Alderson B.) having sentenced him to a year's imprisonment, handed down his judgment in writing, which he recommended him to read and ponder over in prison! In *Reg.* v. *Jackson* (Bedford Summer Assizes, 1844), Alderson B. held that before the evidence of a dumb witness can be received, the court must be satisfied that he understands the obligation of an oath.

It has been decided in the ecclesiastical courts that the consent of a deaf-and-dumb person given by signs, renders a matrimonial contract valid, provided the person has a full and proper understanding of their meaning. An incompetency to enter into contracts or unsoundness of mind, must not be inferred to exist merely in consequence of a person being deaf and dumb. In the case of *Harrod* v. *Harrod* (Vice-Chancellor's Court, June, 1854), an attempt was made to deprive the plaintiff of his rights on the ground that he was an illegitimate child. The marriage of his parents took place thirty years previously, but the marriage was said to be void by

reason of the alleged incapacity of his mother to enter into the contract; the mother was deaf and dumb, and of more than ordinarily dull intellect. Sir W. P. Wood said there was an important difference between "unsoundness of mind" and "dulness of intellect." The presumption in such cases was always in favor of sanity, and the fact of a person being deaf and dumb did not raise a presumption the other way. Experience in asylums showed, that the deaf and dumb were not necessarily of unsound mind. The woman had assented to the marriage in form and substance, and with a perfect knowledge of what she was doing. In the ceremony of marriage it had never been held that the repetition of the words was necessary. The woman conducted herself with great propriety before and after the marriage, and a child was born in due course. There was no ground for an issue.

Feigned Deafness and Dumbness.—From these statements it will be perceived that medical evidence is of but little importance in relation to the deaf and dumb. Indeed, there are only two cases in which this kind of evidence is likely to be called for—1st, when there is accompanying *mental deficiency*, in which case the general rules elsewhere given are applicable; and 2dly, when there is a suspicion that the deafness and dumbness are *feigned*. There will be no great difficulty in detecting an imposition of this kind. It may be found that the alleged deafness and dumbness did not come on until a motive existed, and that there was no apparent cause but the very suspicious one of evading responsibility for some offence committed. The use of ether or chloroform-vapor may be occasionally resorted to with advantage for the detection of such an imposition. In one instance a strong shock of the induced current from a large magneto-electrical apparatus, by means of moistened conductors applied over the larynx, brought out after a few minutes the power of speech in a lad who had successfully imposed on many persons. ("Med. Times and Gaz.," March 30, 1861; p. 339.) It requires great skill to maintain an imposture of this kind. Such persons are immediately thrown off their guard by addressing them in a voice a little above or a little below the common conversational tone; a change in the eye or the features will at once indicate that they hear and understand what is said. An ignorant impostor may be dealt with on the principle of "*artis est celare artem*," by seriously proposing in a low voice to a medical friend who may be present, the necessity for the performance of some formidable surgical operation. The production of amputating instruments has been known to have a wonderful effect!

In *Reg.* v. *Yaquierdo* (Herts Summer Assizes, 1854) the prisoner, who was charged with wilful murder, was found by the jury to be wilfully mute. The man refused to plead, although it was obvious that he was well aware of the nature of the proceedings. No counsel could be assigned to him, as this could not be done without the prisoner's consent. He was convicted and sentenced. If the impostor can write, he may perhaps be detected by the ingenious plan adopted by the Abbé Sicard. When the deaf and dumb are taught to write they are taught by the eye. The letters are only known to

them by their form, and their value in any word can be understood only by their exact relative position with respect to each other. A half-educated impostor will spell his words, or divide them incorrectly: and the errors in spelling will always have reference to sound—thereby indicating that his knowledge has been acquired through the *ear*, and not alone through the eye. A man who had defied all other means of detection wrote down several sentences, in which the misspelling was obviously due to errors produced by the *sound* of the words, thereby showing that he must have heard them pronounced. The Abbé concluded that the man was an impostor without seeing him, and he subsequently confessed the imposition.

LIFE INSURANCE.[1]

CHAPTER LXV.

PRINCIPLES OF LIFE INSURANCE.—QUESTIONS TO PERSONS WHO INSURE THEIR LIVES.—MEDICAL QUESTIONS.—WHAT DISEASES HAVE AND WHAT HAVE NOT A TENDENCY TO SHORTEN LIFE?—LEGAL DECISIONS RESPECTING THE MEANING OF THESE WORDS.—CONCEALMENT OF DISEASES.—WHAT IS MATERIAL CONCEALMENT?—CONCEALMENT OF HABITS.—WHAT IS INTEMPERANCE?—PROXIMATE AND REMOTE EFFECTS.—DELIRIUM TREMENS.—EPILEPSY.—PHTHISIS.—ABSTINENCE.—VEGETARIANISM.—OPIUM-EATING.—INVETERATE SMOKING.—INSANITY.—VOIDANCE OF POLICIES BY SUICIDE.—SECRET POISONING OF PERSONS WHOSE LIVES ARE INSURED.

THE subject of Life Insurance in a medico-legal view is almost peculiar to the medical jurisprudence of Great Britain. This arises from the extent to which insurances on lives are effected in this country, and from the peculiar nature of the provisions which regulate contracts of this description.

The insurance of a life is a contract whereby the insurer, in consideration of a certain sum of money, called a *premium*, either in a gross sum or in periodical payments—proportioned to the age, sex, profession, health, and other circumstances of the person whose life is insured—undertakes to pay to the person for whose benefit the insurance is made a stipulated sum or an equivalent annuity, upon the death of the individual whose life is insured, whenever this event shall happen, if the insurance be for the *whole* life; or, in case this shall happen within a certain period, if the insurance be for a limited time.

The deed by which this contract is made is called a *policy*, and it is concerning the stipulations of the policy, and the meaning to be put upon certain medical terms used in it, that litigation commonly arises. The amount of premium payable will be regulated by the *mean expectation* or duration of life of the individual; and this it is well known is not only different at different ages, but is greater at certain periods of life in women than in men. One fact, however,

[1] [This chapter is taken from Dr. Taylor's work on the "Principles and Practice of Medical Jurisprudence," London, 1865. See further upon the subject of Life Insurance, "Angell on Fire and Life Insurance," pp. 296–456.—P.]

is certain,—the most successful Insurance Offices have considerably underrated the probability or expectation of life among adults, and thus have derived enormous profits by demanding higher premiums on the insured than a fair view of the rate of mortality would justify. The calculations of some of the older Offices were based on what is called the Northampton Table, which represents in an exaggerated degree the mortality not only of the class of persons who commonly effect insurances, but of the entire population. This table has been thus improperly applied to determine the mortality of men in the middle classes, holding the most durable tenure of life. Besides this, as Mr. Edmonds has shown, some of the Offices have entirely excluded from insurance the sick class, out of which the greater part of the mortality indicated in the table necessarily takes place. By excluding the sick, and requiring strong medical certificates respecting the condition of healthy applicants, it follows that the mortality among the insured falls immeasurably short of that which is indicated by the ordinary Tables of Mortality from which the amount of premium is really calculated.

The sum for which a person's life has been insured cannot be recovered until after the death of the person and distinct proof of death. Those who would benefit by the death must prove the fact of death when this is open to doubt. In the "Principles and Practice of Medical Jurisprudence" (p. 120)[1] a case is reported in which a claim was made on an insurance company for the amount of a policy on the life of a man who suddenly disappeared, while at Brighton, within a week after the insurance on his life had been effected. The man's clothes were found on the beach, and the jury were asked to infer from this fact that the man was drowned, and that his body had been carried out to sea. No one had seen him go into the water. The jury were discharged without a verdict. It was quite possible that the clothes had been designedly placed there, and that the man had gone off in another direction, and was still living.

[1] "A remarkable case was tried in the Court of Exchequer, Guildhall, in February, 1862 (*Hiorns and Drew* v. *The Railway Passengers' Insurance Company*), which involved a question of the presumption of death from circumstantial evidence; but in which it was suggested that a grave fraud had been perpetrated by the parties concerned. The action was to recover from defendants the sum of 250*l*., on a policy of insurance on the life of one *F. D. Hiorns*. The alleged deceased, Hiorns, was a single man, æt. 26. He insured his life against accident, for the above mentioned sum, on the 6th September, 1856; and on Saturday the 13th September, he went to Brighton by an evening train, taking a return ticket. He spent Sunday and Monday with his friends, and on the morning of the latter day (the 15th) he had a bath in the sea; in the evening he parted from his friends, at about seven o'clock, to go to his lodgings before returning to London, expressing his intention of taking a second bath before doing so. He was seen to go towards the sea, and from that time up to the date of the action he had not been seen alive. On the day that he was missing, a person discovered a suit of clothes lying on the top of the steps of a bathing machine, but no trace of the owner of them could be discovered. The police took possession of the clothes, and upon searching the pockets a purse, containing a return-ticket, was found, and they were identified as belonging to Hiorns. Advertisements were issued, and every inquiry made to discover the missing man, but without avail. On the 30th of October, forty-five days after the disappearance of Hiorns from Brighton, the naked body of a man was washed up at Walton-on-the-Naze, on the Essex coast, about 150 or 160 miles from Brighton. The body, according to the opinion of some

[This case is reported under the name of *Trew and Hiorns, executors of Frederick Hiorns* v. *The Passengers' Assurance Co.*, in 5 Hurls. & Norm. 211. It was tried before POLLOCK, C. B., who non-suited the plaintiffs, because, 1st, there was no sufficient evidence of death: and, 2d, there was no evidence that the death was caused by an accident within the meaning of the policy. The motion to take of the non-suit was argued before the court in banc, consisting of POLLOCK, C. B., MARTIN, B., and WATSON, B. By the terms of the policy, the insurance was against any injury caused by accident or violence within the meaning of the policy, in case the assured should die within three calendar months from the happening of the accident. It was also provided that no claim should be made in respect to any injury, *unless the same should be caused by some outward and visible means of which satisfactory proof could be furnished to the directors.* MARTIN, B., was of opinion that there *was* evidence from which the jury might infer the death of the assured; but that even if the body found was the body of Hiorns, drowned while bathing, there was no evidence that *he died from an injury caused by accident within the meaning of the policy.* "It seems to me," said the learned judge, "that the whole evidence is quite consistent with the fact that this person might have died from natural disease; and that upon his getting into the water the effect was such as to cause his death by apoplexy or cramp. The cases referred to by the defendant's counsel show that where the death takes place in such manner that it may have happened from natural causes the assurers are not liable." In this opinion WATSON, B., concurred. POLLOCK, C. B., agreed with the other judges that there was no proof of injury within the meaning of the policy, still, however, adhering to his opinion that there was not even proof of death. "It appears to me," he said, "to be a case of grievous suspicion; and in fact I believe the body found was not the body of the assured, and he will some day appear alive."

A case is mentioned in Angell on "Fire and Life Insurance," p. 379, note 4, where the defence of want of proof of death was set up, but not successfully. In the winter of 1848, Rev. Thomas Waring very mysteriously disappeared near Elizabethtown, Hardin Co.,

medical men, had been in the water some six or seven weeks, and it was, of course, very much decomposed, all traces of the features being destroyed. An inquest was held, at which the plaintiff, G. B. Hiorns, attended, giving evidence that the remains were, to the best of his belief, those of his brother. In consequence of the complete destruction of the features, according to the medical evidence, there was nothing whatever on which to base a proof of identity, and the jury found that it was the body of a person unknown. The defence to the action was: that the assured was still living and within reach of his friends, awaiting the receipt of the money from the office. It seems that the alleged deceased had been a bankrupt in 1855: and in September, 1856, he effected several policies of insurance in different offices, and made his will, directing that the policies after his death should be realized and the money appropriated to the payment of his debts. The jury could not agree, and were discharged without a verdict. As in this case the body of Hiorns was not found, there was no proof of death. The discovery of the clothes was only a circumstance from which a presumption might be raised either way. Considering that the man's life had been insured in this and other offices for only one week, at the time of this mysterious disappearance, there was strong reason for suspicion." Principles and Practice of Medical Jurisp. p. 120.

Kentucky, and was then and still believed by his relatives and friends to have been murdered. Some years before his death he had effected an insurance on his life, in favor of his wife, in the Nautilus Mutual Life Insurance Co. of New York, for $5000. In January, 1853, suit was instituted in Jefferson Circuit Court by Mrs. Waring, for the recovery of the sum named. One of the points relied upon by the defence was that he was not dead, but had absconded. The whole case turned upon this. The case was submitted to the jury upon the evidence, and a verdict rendered for plaintiff for the amount of the policy with interest.

The law applicable to such cases is thus stated by Mr. Angell ("Fire and Life Insurance," § 351): "In order to render the insurers upon a life liable, the event of death may (must) happen within the time prescribed by the policy, and as a doubt may exist whether the person upon whose death the liability depends is dead, a question of fact may be raised to be determined by the jury. All the authorities concur in stating the rule of the common law to be that the presumption of life, with respect to persons of whom no account can be given, ends at the expiration of *seven years* from the time they were last known to be living; and that, after such a period of time, the burden of proof is devolved on the party insuring the life of the individual in question. The issue in such case being an issue of fact, the jury are at liberty to find the fact of death within the period of seven years, upon the circumstances proved in the case. The circumstances which have been stated to be material to this issue, are the age of the party, his situation, habits, employment, state of health, physical constitution, the place or climate of the country, whether he went by sea or land, the facilities of communication between that country and his former home, his habit of correspondence with his relatives, the terms of intercourse upon which he lived with them, in short, any circumstances tending to aid the jury in finding the fact of life or death—all these circumstances have been stated by Prof. Greenleaf as material. There must also be evidence, that learned author proceeds to say, of diligent inquiry at the place of the person's last residence in this country, and among his relatives, and any others who would have probably heard from him, if living; and also at the place of his fixed foreign residence, if he was known to have any. In *Loring* v. *Steinman*, 1 Met. (Mass.) R. 204, Shaw, C. J., in giving the judgment of the court, says: "It is a well settled rule, that upon a person's leaving his usual home and place of residence for temporary purposes of business or pleasure, and not being heard of, or known to be living, for the term of seven years, the presumption of life then ceases, and that of his death arises. The presumption is greatly strengthened when the departure of an individual was from his native place, the seat of his ancestors, and the home of his brothers and sisters, and family connections; and still further when it was to enter upon the perilous employment of a seafaring life."

Upon this subject, see also Best on Presump., 59–61; *Whiteside's*

Ap. 11 Harris, 114; *Campbell* v. *Read*, 12 Ib. 498; *Holmes* v. *Johnson*, 6 Wright, 159; *Winship* v. *Conner*, 42 N. H. 341.

When the person whose life is in question has gone to sea, the presumption of death may arise much sooner than seven years. Thus in *Patterson* v. *Black*, Park on Ins. 433–34 (2 Am. Ed.) the question was whether the assured died before the 30th January, 1778. It appeared that about the 20th November, 1777, he sailed from the Cape of Good Hope, in the sloop of war Swallow, which ship, not being afterwards heard of, was supposed to have been lost in a storm off the Western Islands. The plaintiff proved the departure, and also called several captains who sailed at the same time who swore that the vessel must have been as forward in her course as they were on the 13th or 14th of January, the period of a most violent storm, in which she was probably lost; and that the Swallow was much smaller than their vessels, which with difficulty weathered the storm. Lord Mansfield, who tried the cause, left it to the jury to say whether, under all the circumstances, they thought the evidence sufficient to convince them that the assured died before the time limited; adding, that if they thought it so doubtful as not to be able to form an opinion, the defendants should have their verdict. They found for the plaintiff.

The rule is stated to be that where a vessel is missing and no intelligence of her has been received within a reasonable time after she sailed, it is presumed that she foundered at sea. Thus, where a ship was insured in 1739, from North Carolina to London, an action was brought against the underwriters. The only evidence was that she had sailed on her intended voyage, and had never since been heard from. The defendant objected that as captures and seizures were excepted by the policy, it lay in the assured to prove a loss by sinking, &c. The Chief Justice (Lee), however, said that it would be unreasonable to expect evidence of that, for as everybody on board was presumed to be drowned, the plaintiff had given the best proof the nature of the case admitted of. The case being left to the jury, they found for the plaintiff. *Green* v. *Brown*, 2 Strange, 1199.

In order to raise this presumption, however, it must be distinctly shown that the ship left the port bound on her intended voyage; and although her not being heard of for many months or years, raises a presumption of her crew having perished, it affords none as to the precise *time* of the death of any person on board. This must be collected by the jury from the circumstances of the case. *Watson* v. *King*, 1 Stark. R. 121; *Sillick* v. *Booth*, 1 Y. & C. N. C. 117; Best on Presump. 145–6.

Where two or more persons perish by the same calamity, the question sometimes arises, when the circumstances of their deaths are unknown, which one is to be presumed to be survivor. By the Roman law, if it were the case of father and son, where the latter was under the age of puberty, he was presumed to have died first; but if above that age, the presumption was the other way. By the French code, if the persons perishing are under the age of fifteen, the eldest is presumed to have survived; if above the age of sixty, the

youngest. If between those ages and of different sexes, the male is presumed to have survived; if of the same sex the presumption is in favor of the younger. (Greenleaf's Ev. vol. 1, § 29.)

But in the common law, no rule on the subject has been laid down; and the better opinion is that the presumption is that all perished together. Ib. § 30. However, in the case of *Moehling* v. *Mitchell*, 1 Barb. Ch. (N. Y.) 264, where a married woman procured an insurance on the life of her husband, for her own use, the money to be paid to her, unless she died before him, and in that case to her child, pursuant to the act of 1840 (2 R. S. 3 ed. 207, §§ 60, 61), and sailed with her husband and child in a ship which was never heard of again; held, there being no presumption that the child survived her, or that she survived her husband, that the case did not fall within the act, and that the insurance money was part of the personal estate of the husband.

"If any circumstances of the death of either party can be proved, there can be no inconvenience in submitting the question to a jury, to whose province it properly belongs." 1 Greenl. Ev. § 30.

Thus in the case cited by Blackstone, from Cro. Eliz. 503 (2 Black. Com. 132), upon the question of what constituted a sufficient seisin on the part of the husband to entitle the wife to dower, where a father and son were both hanged in one cart, but the son was supposed to have survived the father by appearing to struggle longest; the jury found that he was the survivor, whereby he became seized of an estate in fee by survivorship, in consequence of which seisin his widow had a verdict for her dower.

See also upon this subject, Best on Presump. 190–202.—P.]

Different rules have been given by actuaries for calculating the expectation or duration of life at different ages. It is difficult to test their accuracy, except in reference to large numbers of persons living under similar circumstances, and for these groups of the population statistics do not fairly provide. Age is the point from which nearly all the Tables of Mortality start, without reference to health, trade, occupation, or social position. One of the most simple of these rules for calculating the duration of life from 5 to 60 years has been given by Willich: he considers it to be equal to two-thirds of the difference between the age and 80. Thus, in a man 20 years of age the difference is equal to 60, and two thirds of this are equal to 40, the probable duration of life for a person of average health at 20. Each office has its own rules for calculating the amount of premium to be paid by the person who effects an insurance. As insurance offices are very numerous and their profits are large, it is obvious that their calculations must be very much in their own favor. The expectation of life in the insured is ordinarily much greater than they assign to it; at the same time the amount payable in the form of premium is kept down by competition.

With respect to the influence of *profession*, a higher premium is demanded by some offices for the insurance of the lives of persons whose occupations expose them to great risk—as, for instance, of persons actually engaged in military or naval service. The rule adopted with respect to professions in one of the best London offices

is as follows: "No extra premium is required from any person in the army or navy unless on actual service, but the assurance will be void if the party whose life is assured enter into any naval or military service whatever, unless by consent of the Directors endorsed on the policy."

Above all other conditions, *the general state of health* of the person is likely to have a most important influence on the mean duration of life; and it is here that medical science lends its aid—1st, by showing how far a contract may be safely entered into when the person is affected with disease; and 2dly, by showing whether a diseased state of the body really existed in the person insured, although at the time of insurance it may have been alleged that he was healthy and free from disease.

By improved methods of diagnosis, the existence of disease under a proper examination is easily made known, or it may be at once inferred from symptoms described by non-professional persons. Then, again, the influence of particular diseases in shortening life are now so much better understood than formerly, that the numerous offices have of late years been especially established for the insurance of *diseased* as well as of healthy lives, the amount of premium being of course regulated by the nature of the disease and the degree to which it may have advanced. In these cases lives are insured as if the persons had reached a greater age, the amount paid being calculated on the theory that the person is ten, fifteen, or twenty years older than he is.

As in the case of all civil contracts the law requires that there should be a strict compliance with the conditions by each party, it follows that, if any fraud has been committed by the insured—if he, or those to whom he trusted in his dealings with the office, have concealed from the insurers the existence of any disease under which he was at the time laboring, or any symptoms indicative of a probable attack of disease; or if he or they have knowingly and wilfully misrepresented or misdescribed his actual bodily condition, then the contract will be void, and the amount of the premiums forfeited. This forfeiture is a usual condition in the policy. Actions on policies of life insurance are not unfrequent; and, unfortunately, the medical evidence given on these occasions, as in cases of insanity, is of a very conflicting character. This is by no means creditable to the profession, for it either proves the existence of great bias in the witnesses, or that medical rules are devoid of all certainty, and are therefore practically useless. A writer, in commenting upon these professional conflicts, says: "One of the most unsatisfactory parts of our law of evidence is that which relates to the testimony of experts. It is impossible to shut out such evidence altogether, but there is nothing which brings more discredit upon the administration of justice. There is one consequence of its admission which is common to all cases in which it occurs. It is, that no difficulty has ever been found in obtaining any amount of evidence of this description on either side of any point at issue." It will be therefore necessary to enter into an examination of the circumstances under

which medical men are called upon to appear. An action is never likely to be brought for the recovery of the amount of a policy, except in those cases where there is reason to suspect that a wilful fraud has existed in the contract. Juries always regard such actions with disfavor; and while judges interpret the law strictly, the onus of proof is entirely thrown upon the offices. Hence the insured are placed in a very advantageous position. These actions in nine cases out of ten depend upon the construction put on the medical terms of the contract; hence it is our duty to see how medical defects are likely to arise in reference to the policy. The conditions of insurance vary in different offices. The following are taken from the papers issued by one of the principal London offices:—

Questions.—The name, residence, and profession of the party whose life is to be assured? Place of birth? Date of birth? The — day of —. Age *next* birthday — years'? (*Proof should be furnished.*) Married or single? Sum to be assured, £ . Term for which the assurance is required? Have you ever been afflicted with gout, rupture, asthma, fit or fits, spitting of blood, or any other disease or disorder which tends to shorten life? Have you had the small-pox, or been vaccinated? Have any of your relatives died of consumption? Are you now, and have you always been, of temperate habits of life? Are you employed in any naval or military service? State if there be any other material circumstance touching your past or present state of health or habits of life to which the foregoing questions do not extend? Name and residence of your usual medical attendant? Has attended me — years. Name, residence, and profession of TWO friends well acquainted with your health and habits of living? Has known me — years. Has known me — years. Has a proposal ever been made on your life at any other office or offices? If so, where? Was it accepted at the ordinary premium? or at an increased premium? or declined? I, the above named ——, do hereby declare that the foregoing statements, and the answers and replies made by me to the several above-mentioned questions and requisitions, and each and every of them, is and are true in substance and matter of fact. And that I have not omitted or concealed any fact, matter, or thing in anywise touching or affecting my state of health, constitution, or habits of life. And I also declare, that it is expressly understood and agreed between myself and the Company, that the foregoing particulars, statements, and this declaration are to be considered and taken as the basis of the contract of assurance between me and the Company, for this assurance. And in case the foregoing particulars, statements, and declaration be untrue, or contain any untrue averment, the policy of assurance affected in pursuance thereof shall, in any or either of such cases, be absolutely null and void, and the premiums paid thereon shall become and be absolutely forfeited to the Company, and not be receivable or recoverable by me or by my representatives. Dated the — day of — 186—. Signature of the person.

[Statements in an application for life insurance, "upon the faith of which the policy is expressed to be made, with a stipulation that, if

they shall be found in any respect untrue, the policy shall be void, are warranties, and if untrue, even in a point immaterial to the risk, avoid the policy. *Miles* v. *Connecticut Mutual Co.*, 3 Gray (Mass.) 580; *Cazenove* v. *Ins. Co.*, 6 C. B. (N. S.) 437.—P.]

The following questions are submitted to the usual medical attendant of the person whose life is proposed for insurance: 1. How long have you known him? 2. Are you his usual medical attendant? and have you seen him with reference to this report? 3. When was he last ill? and what have been the nature and duration of the complaints for which you have attended him? 4. Has he to your knowledge, or have you reason to believe that he has had, any giddiness, or affection of the head, or any particular determination of blood to the head; or has he suffered from apoplexy, palsy, epileptic or other fits, or other disease of the brain, or from insanity? 5. Has he ever suffered from pulmonary disease? from habitual cough, shortness of breath, spitting of blood, asthma, inflammation, or other disease of the lungs, or from disease of the heart? 6. Has he ever had dropsy, inflammation, or severe disease of the bowels, disease of the liver, of the kidneys, or other urinary organs, or any affection of the alimentary canal? 7. Has he had gout or rheumatism? If so, in what form? and have the attacks been frequent? 8. Has he ever been affected with hernia? If so, in what situation? Is it reducible? And does he wear a truss? 9. Has he had any serious wound, hurt, or other accident, causing any bodily infirmity? 10. Do you consider he is now in perfect health? 11. Has he been, and is he now, habitually sober and temperate? 12. Is he of active or sedentary habits? 13. Does his occupation expose him to the chances of disease? 14. Have his parents been healthy and long-lived, or otherwise? 15. Have any of his near relatives died of consumption or any hereditary disease? 16. State any material circumstance touching his health or habits, to which the foregoing questions do not extend, which may affect the eligibility for life assurance? Dated this — day of — 186—. Signed ——.

In order to show the searching nature of these inquiries, and how one set of answers is made to act as a check upon another, it is only necessary to refer to the following list of queries which are put to private individuals acquainted with the person. This paper is to be filled up and transmitted with a proposal for life-insurance:—

State whether you have been acquainted with the person whose life is proposed to be insured, and how long. Whether you have ever heard or known of his being ill, and, if so, state the time of the illness and nature of the complaint. Whether he is at this time, to the best of your knowledge and belief, in perfect health. Whether his *habits* and manner of living are temperate and regular. (You will be pleased to direct your particular attention to this subject of inquiry.) Whether his appearance indicates health and a good constitution. Whether there is any, and what, apparent defect in the formation of his person. When you last saw him. Whether he is in person thin or middle-sized, stout or bloated. Whether his complexion is pale, sallow, brown or florid. Whether he is married or

single. Whether he has had any brothers or sisters. If so, how many; the number now living; the ages at which the others have died, and the cause of their decease. Ascertain and state whether his parents are living, and if not, the age at which they have died, and the causes of their death; communicate all the information you can acquire as to the health and longevity of his other relatives; also whether any of them have died of consumption, or have been subject to fits or mental derangement. Whether the persons referred to, respecting the life to be insured, are worthy of credit; and whether the medical referee is the usual medical attendant of the party. Whether you consider the life in question in all respects safe and proper to be insured by the company upon ordinary terms, and whether you recommend the same to the Directors as such. Ascertain if the life has been proposed in any other office, and if so, whether declined or taken. If the insurance is proposed by one party on the life of another, endeavor to learn and state the object for which it is intended.

No one can blame insurance offices for acting thus rigorously. Frauds of the worst description have been frequently attempted upon them, and it is only by the adoption of a system of this kind that they can protect themselves.

The practice with some offices of obtaining a certificate gratuitously from the medical attendant of the person proposing to insure his life is one great source of litigation. The responsibility of causing the life to be accepted or rejected is thus thrown entirely upon the usual medical attendant of the person; for, as we shall see hereafter, an application for a certificate from a medical practitioner who is a stranger, is very likely to be treated as a fraud, and to lead to the disputing of the policy. The medical attendant of the person, it is true, is the only individual who can properly certify to the real state of health, and therefore to him an application is generally made. He is sometimes expected to furnish an important certificate of this kind gratuitously; and should it happen to be unfavorable, he is exposed to the risk of losing what may probably be a lucrative portion of his practice: for I shall not suppose that any member of the profession would certify to what he knew to be untrue in order to retain a patient. The question is, whether an insurance office has a right to place a medical man in such a responsible position as this. In the issuing of a policy the insurers and insured are equally benefited, for the contract would certainly not be made except upon a supposition of reciprocal benefit. The medical attendant, without whose sanction the policy could not be properly effected, not only derives no benefit, but is actually exposed to the risk of loss for performing in an honorable and conscientious manner an invidious duty thus forced upon him. Such a state of things ought not to be. Many actions for the recovery of disputed policies have shown most clearly that the practice leads to great carelessness and indifference on the part of medical men in drawing up these certificates; and this produces in the end a more serious loss to the representatives of the insured than if the life had not been accepted. It must be

remembered that the insurers do not suffer by any misconduct on the part of a medical man who signs such a certificate, but the representatives of the insured; hence the offices show no disposition to amend this vicious system. It is always professed that such communications are confidential: but in more than one instance medical men have found that the contents of their certificates have become known to their patients, and have even been publicly used as evidence in courts of law. A partial remedy would be, that the medical attendant of the party should not be called upon to sign a certificate at all, but that this should be done only by a medical referee of the office after a regular professional consultation with the medical attendant, and a proper examination of the person. If the life were rejected, the onus of rejection would be on the proper person, the appointed referee; and if accepted, he would be properly made responsible to the office for any gross negligence in the performance of his duties. It is true that there are few insurance offices which have not consulting physicians and surgeons attached to them; but the weight of responsibility in contested suits does not rest with these officers so much as with the medical attendants of the insured. In the event of a medical practitioner being called upon to sign a certificate of this kind, it appears to me that the safe plan to be adopted would be that he should decline the proposal, except upon a professional consultation with the medical officers appointed by the insurers. If, however, from private considerations, he is compelled to sign the certificate, it is his duty to use the greatest caution, not merely in returning answers to the formal questions on the paper, but in detailing *all particulars known to him respecting the state of health of the person.* In acting otherwise he would be doing the greatest possible injury to the representatives of the insured, and probably damage his own reputation. There is no intermediate course; the duty must either be performed carefully, conscientiously, and honorably, or it must be declined altogether. It is a fallacy to suppose that any equivocation or concealment in the declaration can escape detection; and yet, from the evidence which has been given on some trials, it is probable that such an idea had existed in the mind of the medical attendant who placed his name to the certificate.

Let us take the case, however, that this preliminary duty has been properly performed; important medical questions may arise respecting the alleged infringement of the conditions of the policy. The list of diseases specified comprises a great variety—affections of the head, apoplexy, palsy, epileptic or other fits, disease of the brain, insanity, disease of the lungs, spitting of blood, asthma, inflammation, disease of the heart, dropsy, diseases of the bowels, liver, kidneys, or urinary organs, gout, rheumatism, hernia, phthisis, or any hereditary disease. In the proposals of some offices the mysterious word "fits" occupies a very prominent position, but it is difficult to say what this word thus isolated actually means. It appears to have been borrowed from the vocabulary of the ancient searchers under the bills of mortality in the reign of Charles II. Thus it may comprise apoplexy, epilepsy, paralysis, syncope, convulsions from any

cause, and even asphyxia. The word is too indefinite for a certificate, and should be expunged. In the meantime, a court of law will not allow insurers to benefit by the use of ambiguous terms in the contract, and it has therefore commonly restricted the meaning of the word "fits" to attacks of epilepsy. The main condition, however, is involved in the terms—"*any other disease or disorder tending to shorten life.*" Upon the meaning of these words litigation commonly turns, and the opinions of medical experts are required.

Diseases Tending to Shorten Life.—It is impossible to lay down any general rules for determining what diseases have and what diseases have not a tendency to shorten life. Any deviation from health might be so interpreted; but the law puts a proper limitation here upon the meaning of the words, considering them to apply to those diseases only which, in a medical view, are regarded as of a serious nature, and, as a general rule, are likely either directly or indirectly to affect the duration of life of any person laboring under them. This question was brought to an issue in the case of *Watson* v. *Mainwaring*, in which payment of the amount of a policy was refused, because the insured had labored at the time under what was called *organic dyspepsia;* and this fact was kept concealed from the insurers. It was left as a question of fact to the jury, whether the malady with which the deceased was afflicted, and of which he ultimately died, was an ordinary or organic dyspepsia at the time of the insurance. The judge (Chambre) in charging the jury said: "All disorders have more or less a tendency to shorten life, even the most trifling; as, for instance, corns may end in mortification; but that is not the meaning of the clause. If dyspepsia were a disorder tending to shorten life within this exception, the lives of half the members of the profession of the law would be uninsurable." We learn then, from this case, that a person may die from a disease under which he was laboring at the time of insurance; and yet if it be not the common course of that disease to shorten life, the representatives may recover the amount of the policy. This is an equitable interpretation of the terms; for the insurers have no right to give a forced meaning to the words of the policy, and to take advantage of what must be regarded as an accidental result. From other decisions we learn that, in order to render a policy valid, these words do not imply that the insured must have been at the time entirely free from all the seeds of disorder or latent disease. Such a condition is impossible. A man may be laboring under some insidious disease—ulceration of the stomach or intestines, for instance—leading to perforation; but if this be, as it commonly is, unknown both to himself and his medical attendant, the insurers are bound to take the risk. Lord Mansfield, in the case of *Sir James Ross*, held that the warranty was sufficiently true, if the person were at the time in a reasonably good state of health. A life may be a good life, although the person may be at the time laboring under some bodily infirmity.

[The assured who effected a policy on his life in February, 1855, signed a declaration stating, among other things, that he was then

in good health, and did ordinarily enjoy good health: and that he was not aware of any disorder or circumstance tending to shorten his life, or to render an insurance on his life more than usually hazardous, unless anything stated in answer to certain questions which preceded the declaration might be so considered. In an action upon the policy, it appeared that in 1853 and 1854, the deceased had had two severe bilious attacks. Medical men had expressed different opinions as to the effect of these attacks upon his health; but it did not appear that the unfavorable opinions had ever been communicated to the assured. It was held that it was proper to instruct the jury that "if the assured honestly believed at the time he made the declaration, that the bilious attacks had no effect upon his health, and did not tend to shorten his life, or to render an insurance upon it more hazardous, the fact that he was aware that he had had these attacks, even though (without his knowledge) they had such a tendency, would not defeat the policy."—*Jones* v. *Provincial Ins. Co.*, 3 C. B. (N. S.) 65.—P.]

On the other hand, a disease tending to shorten life must not be taken to signify only one of those maladies which have commonly a rapid and fatal course—as phthisis and scirrhus: it may apply to dropsy, gout, asthma, insanity, and many diseases of a chronic character. When the existence of these diseases, or even a well-marked *tendency* to them, is concealed from the insurers, or omitted to be stated through mistake, even without fraudulent intention, the policy in the event of death becomes void, because the risk incurred is really different from the risk understood and intended at the time of the agreement. Such diseases are not necessarily fatal, but this is not the question: their *tendency* is to diminish the expectation of life, and if medical evidence establish this with regard to any disorder intentionally concealed, whether chronic or acute, the contract is at an end.

Gout.—In December, 1862, a case was tried in which it was alleged that there had been concealment of the existence of gout. (*Exors. of Fowkes* v. *The Manchester and London Assurance Company.*) The deceased Fowkes, a commercial traveller, aged 49, in the year 1860 effected a policy on his life for 1000*l.* He died in June, 1861. Payment was refused on the ground that the answers of deceased were untrue, and that there had been suppression of a material fact. It seems he was asked whether he had ever been *afflicted with gout*, and he answered "No." He was asked whether the life had been offered at any other office, and, if so, whether it was accepted; and he answered that it had been proposed, and had been accepted at the ordinary rate. These were the answers which it was alleged were false. On the part of the company, a surgeon stated that in May, 1858, deceased was suffering from suppressed gout. He had an "extremely slight attack," which lasted only about forty-eight hours; he did not tell the deceased that it was gout; he believed that he died of suppressed gout in an aggravated form. A proposal of the deceased to another company, which had been declined, was put in evidence. On the part of the plaintiffs it was contended that there was no evidence

that deceased had ever been "afflicted with gout." The Lord Chief Justice left it to the jury—first, whether the answers of the insured were untrue; and next, whether they were false to his knowledge. First, had he been "afflicted with gout?" The question must be considered with some reasonable latitude, and it was not because a person had some passing symptoms which a far-seeing medical man might ascribe to the presence of suppressed gout in the system, but whether there was gout in a sensible appreciable form? This certainly was stated before ths proposal, to have been "the slightest possible case" of gout, according to the medical evidence. As to the other question—whether the life had been proposed at any office and accepted or declined—it appeared that the life had been proposed at two offices, and accepted by one but declined by the other. Had the assured answered truly in simply saying that he had proposed and been accepted? The question no doubt was not in the most comprehensive form, but was it answered fully and fairly, and according to its obvious meaning and effect, by saying nothing of the proposal which had been declined? He thought not; but left it to the jury. He, however, thought further that it was not strictly true that the life had been "accepted" in the sense in which the word was used—for it had not been accepted by any office on a proposal for assurance, but merely approved by the medical man. It was for the jury to say whether either of the answers was untrue, and, if so, whether either was untrue to the knowledge of the assured. The jury found that the assured had not been afflicted with gout at the time of the proposal; also that the answer to the other question was untrue, but not to his knowledge. The Lord Chief Justice directed a verdict for the plaintiff, subject to a point reserved for the court whether the knowledge of the untruth was material.

Habits.—Again, a person may be laboring under no actual disease at the time of affecting the insurance, but his *habits* may be such as to produce general injury to health, and to have a tendency to shorten life. Concealment of habits, the effect of which on health must or ought to be known to all medical men, may be just as fatal to a policy as the concealment of a serious disease. Although they may not always be included in the questions put by the office, yet the law will equitably hold that the insurers should be made acquainted with all circumstances which might reasonably affect the risk. Concealed habits of drunkenness have thus given rise to medical questions of considerable importance; and in one remarkable instance which will be mentioned hereafter, a question arose as to whether the practice of opium-eating, which had been concealed from the insurers, had or had not a tendency to shorten life.

Some recent exposures, partly of a civil and partly of a criminal nature, have rendered insurance offices much more strict in their inquiries. In the rules already quoted, special information is demanded upon the existence of material circumstances touching health or habits of life, and whether the person is or is not of temperate habits. Any facts bearing upon these questions, if known to the

medical attendant, must of course be stated. The existence of such habits must be known to the person himself, and the declaration which he signs is so explicit that, if intentionally concealed by him, no individual can reasonably complain of the voidance of the policy and the forfeiture of the premiums.

The case of *Von Lindenau* v. *Desborough*, tried in the Court of King's Bench before Lord Tenterden in October, 1828, shows that medical men are bound, at the risk of invalidating the policy, to state the exact bodily condition, so far as it can be obtained by observation, of the person whose life it is proposed to insure. It appears that on the 16th June, 1824, a policy for 3,208*l.* was effected, in the Atlas office, on the life of the Duke of Saxe Gotha, at the time he was residing abroad. The Duke died on the 11th February, 1825, within nine months of the time of effecting the insurance: and the payment of the amount of the policy was refused on account of a material concealment of the exact condition of the insured from the insurers. It appeared in evidence that for some time prior to the insurance, the Duke had been an invalid, and that at the time it was effected he was childish and had not spoken for two years. He had labored under some affection of the brain, did not improve in health after the insurance, and ultimately died from an attack of paralysis. The certificate upon which the insurance was granted had been signed by two German physicians, Drs. Dorl and Ziegler. It was to the effect that the general health of the Duke was good; but that he was "hindered" (gehindert, had an impediment) in his speech, and had an affection in his left eye. It was also stated that he was perfectly free from disease or symptoms of disease. On inspection of the head a tumor of large size connected with the inner table of the skull was found pressing upon the brain. This tumor was evidently of long standing, and had probably been the cause of the symptoms and death. Ten ounces of serum were found effused in the brain.

It appears that before the insurance was effected an agent in Germany had informed the insurers that the Duke had led a dissolute life, by which he had lost the use of his speech, and, according to some, of his mental faculties also; and on this the Office required a payment of nearly double the usual premium. The case of the insurers was that there had been material concealment of the Duke's real condition at the time of effecting the insurance. The late Mr. J. H. Green, who appeared as a witness for the plaintiff, the claimant under the policy, considered, from the history of the case, that there were no symptoms of organic disease, although the symptoms mentioned would lead to a suspicion of disease in the head. In reply to a question by Lord Tenterden, he said if, as a medical man, he had been asked by an Insurance Company concerning the state of a man's health, who was unwilling to move, who was subject to control and influence, and who had lost his speech, he would have considered it his duty to mention these circumstances. Lord Tenterden then left it to the jury whether there had been any conceal-

ment of material facts relative to the Duke's health. The plaintiff was nonsuited, and a new trial subsequently refused.

There can be no doubt that the answer here given by Mr. Green was such as every conscientious man must have given under the circumstances. A medical expert appears in court to speak the *whole truth*, to the best of his judgment, and not to make out rightly or wrongly the particular case of the person who summons him. On the other hand, it is obvious that Drs. Dorl and Ziegler gave a most improper certificate. They might not have been able to express any opinion respecting the existence of a tumor in the brain, but they were wrong in suppressing the real state of the Duke. If they knew his actual condition, their conduct was censurable; if they did not know it, they were not justified in signing a certificate at all. Because a man may enjoy at the time tolerable bodily health, facts of this nature, showing great disease of the nervous system, ought not to be kept from the knowledge of the insurers. Imbecility depending on whatever cause should always be mentioned.

Material Concealment.—Some medical practitioners entertain the opinion that, provided they can certify that the person is in good health at or about the time of the insurance, that is all that the insurers need know. The same opinion is commonly entertained by the insured; and the latter, after having been attended by one medical man for an illness, will apply to another, a comparative stranger, to certify to his condition of health for insurance. We must not lend ourselves to this system, which is based sometimes upon a mistake, at others upon fraud. If medical men would decline signing the papers under such circumstances, they would not only save themselves from censure, but be actually conferring a benefit upon the applicant, by preventing him from obtaining a policy upon terms which on his death may render it invalid, and entail a forfeiture of the premiums. From what has already been said, it will be understood that the exact state of health of the person at the time of the insurance does not represent the whole of the risk incurred by the Office. The restoration to health, as in a case of diseased lungs, may be only temporary: it may be speedily followed by phthisis, and the insurers therefore ought to be informed of the previous condition as well as present state of the applicant. The conditions in the declarations are so explicit upon this point, as to render it scarcely necessary to refer to the propriety of making this addition to the certificate. The disease under which the insured had labored may have been of a trivial kind, and not likely to affect the risk; nevertheless the safest plan is to state it. The option will then lie with those who are to incur the risk. When facts of this kind are either concealed or not plainly stated, the question of how far they were or were not material to be laid before the insurers is always left to the jury, who are guided in their verdict by their own common-sense as well as by medical opinions. It would appear also, from a decision of the House of Lords in *Anderson* v. *Fitzgerald*, that the truth of the answers given and not their materiality, should

govern the verdict of a jury. In a case tried in December, 1856, Lord Campbell held that a suppression of the truth on the part of the person whose life was insured would not avoid the policy, if the party effecting the insurance was innocent and ignorant of the suppression.

Some medical men have adopted the plan of signing certificates, but have declined to make any written reply to certain queries: as, for instance, the general query—Can you give any and what information respecting the *habits* of the applicant? If nothing be known concerning these, it should be so stated; if, however, the existence of any habits affecting health be known to us, we shall do an injury to the applicant and ourselves by withholding information on the subject. It may be the means of causing a heavier premium to be demanded for insurance than if the facts were known; and if this should not happen, the omission is very likely to give rise to future litigation. Thus, in the case of the *Earl of Mar*, the payment of the policy was refused on the ground that the Earl had been addicted to opium-eating. His medical referee replied favorably to the *special* questions in regard to habits, whether sedentary or active, temperate or intemperate; but he neglected to reply to the *general* question regarding habits; and on the Earl's death it was found that he had been an opium-eater for many years before effecting the insurance. This fact might not have been known to the medical referee, but it is always better to fill in the reply either affirmatively or negatively, if the certificate be signed at all, than to leave the Office to draw an unfavorable inference, or to render the policy afterwards open to dispute.

In the case of a *Mrs. Elgie* payment of the amount of a policy was refused under the following circumstances: The insured had been for some time prior to the insurance in a delicate state of health, and in the year 1821 it was thought that the symptoms were those of *phthisis*. In October, 1822, she was twice alarmingly ill. In December of that year, wishing to insure her life, she called in a medical friend, who had not been in attendance upon her, to examine her and certify as to her state of health. It appears he examined particularly the state of her lungs and liver, and finding them, as he thought, sound, certified that the ordinary state of her health was good. On the 19th March, 1823, he gave another certificate to the same effect, upon which the insurance was effected in April, 1823. Mrs. Elgie died of disease of the lungs in April, 1824. Payment was refused, on the ground that there had been concealment of material facts as to the state of health of the insured. It appears that, unknown to the medical gentleman who had given the certificate, the insured had been attended between December, 1822, and the 19th March, 1823 (the date of the certificate), by a medical practitioner residing in her neighborhood for a cough, and that she had become much emaciated. This gentleman, however, thought that there was no structural disease—an opinion confirmed by the examination made for the certificate in March. The fact of the deceased having labored under this illness was, however, concealed

from the insurers. The jury thought that, although there had been concealment, it was not material, and a verdict was returned against the defendants. A new trial was granted, but a verdict was again returned against them. The truth is, it is not the concealment of every slight attack of illness that will vitiate a policy; although the contract being one, as it is termed, *uberrimæ fidei*, it is in the highest degree unwise either in the insured, or, if it be known to him, in the medical man signing the certificate, to conceal from the insurers any previous illness or medical attendance from another quarter. It may always be fairly urged that a knowledge of the facts might have led to the rejection of the life, or have made a difference in the amount of the annual premiums. One part of our duty therefore, if we sign a certificate upon a careful examination, is to ascertain whether the applicant has or has not been previously attended by another medical practitioner.

A case was tried at the Warwick Summer Assizes, 1844 (*Geach* v. *Ingall*), in which it was alleged that the existence of *phthisis* (pulmonary consumption), or phthisical symptoms, had been concealed from the office. On the side of the plaintiff the medical attendant of the insured was called, and he certified that in May, 1840, when the policy was issued, he considered the deceased to be in good health, and an insurable life. A physican who examined the deceased in February of that year stated his belief that the chest of the deceased was sound, and he considered him to be a very good life. For the defence two medical men were called, who deposed that deceased had had spitting of blood before effecting the insurance, and that he had labored under decided symptoms of consumption in 1840, which it was inferred must have existed at the time of the insurance. There was evidence of a general consumptive tendency in the family; the father died of it, and there was no doubt whatever that the insured had died of it in December, 1843, three and-a-half years after the policy was issued. The medical evidence was conflicting, but the existence of the disease at the time of the insurance rested upon presumption and not upon proof; hence the jury returned a verdict for the plaintiff. A second and a third trial were had upon this case, on the ground of misdirection by the learned judges; but verdicts were again returned on both these occasions in the plaintiff's favor. It is most probable that the seeds of consumption existed in the insured; but, unless there is some plain and certain evidence from symptoms, proof of this will amount to nothing. If inferential proof of this kind were sufficient to avoid a policy, the payment of most policies might be easily and successfully disputed. Had the deceased died soon after the insurance, there might have been greater probability in favor of the view adopted by the office; but he lived nearly four years afterwards; hence, if the symptoms had existed in a confirmed state at the time of the insurance, of which there was no direct evidence, as the medical officer of the company had certified in favor of the life, the case must have been of an unusually protracted kind.

In a case in which *strangulated hernia* was the cause of death, the

deceased had insured his life upon his own declaration and a medical certificate. In about thirteen months afterwards he died from the effects of an operation for strangulated hernia. The medical witness who signed the certificate stated at the trial that the deceased had never had hernia, and that he had not attended him for that disease. A letter was produced, however, in which he (the witness) had admitted the existence of hernia in the deceased four months before his death. He denied the truth of this statement, and said the tumor which he had reduced by manipulation was varicocele. The question was, whether hernia had or had not existed, and had been concealed from the insurers at the time when the insurance was effected. The admission in the letter carried the period of the alleged existence of hernia to five months after the certificate was granted, whilst the deceased had positively stated in his declaration, that he was not and had never been affected with rupture, and the medical certificate was to the same effect. One medical witness deposed that he had been consulted by the deceased, and had found him laboring under irreducible hernia five months before he proposed to insure his life! This gentleman stated that he then informed the deceased he had inguinal hernia; he tried to reduce it, but could not succeed. These facts, it was alleged, were not stated to the insurers at the time of the insurance, as they certainly ought to have been. On the other side, two medical witnessess, including the operator, thought that the hernia was quite recent. The operator found no adhesions, and there was nothing to induce him to suppose that the hernia was of fourteen months' standing. Evidence was also given to show that the witness who deposed to the existence of inguinal hernia before the insurance might have been mistaken in his diagnosis, and have confounded a hydrocele or a varicocele with a hernia; but admitting this to be true, the existence of a tumor of any kind in such a situation should not have been kept concealed from the company or their medical referee. The jury returned a verdict that there was no fraud, but that the deceased had had hernia at the time of effecting the insurance. A second trial was granted, and a verdict was then returned in favor of the plaintiffs.

If, under any circumstances, a jury should find that the concealment is material, the legal consequence is that the policy is void. It is not at all necessary that the person should die of the disease concealed. This rule was laid down by the late Lord Tenterden in the case of a *Colonel Lyon*. The Colonel insured his life by two policies in May and June, 1823, and died of a bilious remittent fever in October of that year. Payment was refused on the ground of misrepresentation and concealment. Colonel Lyon referred the office for a certificate of his health to a gentleman who had not attended him for three years previously. His answers to the printed questions were that he had had no other medical attendant, and that he had never had "a serious illness." The medical gentleman to whom he referred certified that his life was insurable, and the policy was issued. It appeared in evidence, however, that the deceased had been attended by two other medical practitioners from February to

April, 1823, for hepatitis, fever, and a determination of blood to the head. One of these employed very active treatment: he considered him to be in a dangerous state, and would not have certified him to be in health until the end of May, 1823. All agreed that the deceased did not die of the disease for which he had been thus attended. Lord Tenterden stated it to be his opinion, that if a man referred to one practitioner, because he could speak well of his health, and thought that if he referred to other medical men because they would not so certify, although the insured did not die of the disease with which he was then afflicted, the policy would be void. A verdict was accordingly given for the defendants. The practice of referring to medical men who have been only recently consulted is not unfrequent. The opinion of the usual medical attendant might be unfavorable, or he might report on the existence of habits which would render the life uninsurable, or insurable only at a high premium. This want of fair-dealing, however, commonly defeats its object. There is expensive litigation, and the policy is pronounced to be void. The case of *Wilshere* v. *Brown*, tried before Lord Abinger in the Exchequer in December, 1842, and of *Palmer and Fish* v. *Irving*, tried at the Norwich Summer Asssizes, furnish illustrations of this. In the latter case the deceased had returned that he had never had a medical attendant. His life was insured for a large sum on the 21st November, 1842, and he died on the 5th December following. There was reason to believe that he had died from inflammation of the lungs; but it was proved that he had labored under symptoms of pulmonary consumption, and had been attended by three medical men shortly before he effected the insurance. This was concealed, and the policy was set aside on the ground of fraud.

A singular case was tried at Glasgow in 1837, in which the proceedings were inverted, compared with the usual English practice in such cases. An Insurance Company brought an action against the representatives of the insured, on the issue whether the policy had not been obtained by misrepresentation and undue concealment. An insurance was effected on the life of a *Mrs. Ralston*, on the 10th December, 1833. Her own declaration was that she was in good health and that she was not afflicted with any disease or disorder tending to shorten life. She referred to her usual medical attendant, who certified that he had known her for ten years, and had been in the habit of attending her professionally; that she was last ill in the month of September, 1833; "that her indisposition was acidity of the stomach;" that she had not, to his knowledge, been affected with any illness of such a nature as to influence her general health; that she was then (30th November, 1833) in perfect health, and was not subject to fits or any affection of the head, but occasionally to slight headache from acidity in the stomach. He knew of no circumstance in her business or habits of living tending to impair her health or shorten her life. The deceased died of apoplexy on the 3d September, 1834, within nine months from the issuing of the policy. The Insurance Company were about to pay the amount, when an action was brought by the medical attendant against the executors of the

deceased for payment of 162*l.* for medical attendance, &c., on Mrs. Ralston, from the 15th September, 1833 (two months prior to the date of the policy) to the 4th June, 1834. The referees awarded 145*l.* to the plaintiff. His books were given in evidence, and it then appeared that between the 19th September and 3d December, 1833, (the date of the proposal for insurance) he had paid her thirty-five professional visits, most of these of long duration. It further appeared from the diary that she had been frequently bled; her head had been shaved and blistered, and leeches had been applied to her temples. She had also had constant attendance after the insurance, and in the early part of 1834 had had several fits of epilepsy. Three medical witnesses deposed that the declaration of deceased and the certificates given by her medical attendant did not set forth her true condition; and that there had been misrepresentation and concealment of material facts. This was also the opinion of the judge, and a verdict was returned for the office. Although the illness, prior to the insurance, might have had no connection with the death from apoplexy, it was held that the insurers ought to have been made acquainted with it.

Among the diseases upon the concealment of which policies have been most frequently disputed, may be enumerated gout, dropsy, paralysis, epilepsy, hæmoptysis, incipient phthisis, delirium tremens; and to this list may be added drunkenness, intemperance, and irregular habits.

Intemperate Habits.—In a large number of cases the payment of policies is resisted on the ground of concealed drunkenness and general habits of intemperance. There is some difficulty in these cases, because medical men may entertain different opinions respecting the effect of such habits upon the general health, and the degree to which they may be safely carried. There is one thing however certain—whatever may be our opinion of their effect on health, we are bound to state, if known to us, that they exist, and thus put it out of the power of a company to dispute a policy upon such a ground. From the frequent concealment of habits of this kind, some offices now adopt the practice of making it a special question, to which a plain negative or affirmative answer should always be given: "Are you now and have you always been of temperate habits of life?"

When intemperance is alleged, we find not only conflicting medical evidence but much cross-swearing among the witnesses. It becomes a question: What is intemperance? and this is answered according to the peculiar views of a witness. A case was tried at the Exeter Spring Assizes in 1842 (*Southcomb* v. *Merriman*), which will show the difficulty of getting at the truth. Payment of a policy was disputed by the office on the ground of concealed intemperate habits. At the trial the representatives of the insured called twelve witnesses to prove that the deceased was a very temperate man, while the office called twenty-one to show that he was habitually intemperate! One of the temperance witnesses (for the plaintiff) defined drunkenness to be "when a man lost his reason, could not give a

proper answer, was not able to do business, had lost his legs, and was obliged to be carried home." He admitted that the deceased had occasionally continued drinking for three or four days together, but that was a very rare occurrence. The medical attendant who gave the certificate said that the deceased's was a perfectly good life, and he considered him to be a person of sober and temperate habits: he had not thought it requisite to inform the office of occasional outbreaks, because he did not think that drinking had any effect upon his health. Several witnesses proved that deceased was in the habit of drinking enormous quantities of beer, and that it required a great deal to make him ramble. The insurance was effected in October, 1839, and the deceased died in April, 1841, from inflammation of the lungs; but, in the opinion of the medical witnesses, this had not arisen from excessive drinking. Notwithstanding the concealment of these facts, the jury returned a verdict for the full amount claimed; but a rule for a new trial was afterwards obtained. This case shows what fallacious views are entertained on the medical questions of life-insurance. In a case like this it was clearly the duty of a medical man to describe the habits of the deceased. He might, if he pleased, have appended to the certificate that in his judgment they had not affected the health of the person, but the defendants who were to take the risk should have been placed in a position to form a judgment for themselves.

In the case of the Hon. H. G. Talbot (*Craig* v. *Fenn*, December, 1841), where no answer was returned to the question whether the deceased was of temperate and moderate habits of life, and the company actually charged a higher premium in consequence, the jury returned a verdict in their favor, the real condition of the insured not having been made known to them at the time the insurance was effected

[Where the representation was made that the insured was of sober and temperate habits and in good health; if the representation was true at the time it was made, the subsequent habits of the insured would be no bar to a recovery upon the policy; (*Reichard* v. *Manhattan Life Insurance Company*, 31 Missouri R. 515.) And if the party insuring is not called upon by any general or special question, he need make no statement as to any particular habit, as intemperance, though such habit may be prejudicial to his health. *Rawls* v. *Life Ins. Co.*, 36 Barb. (N. Y.) 357. Where the insurance is by a creditor upon the life of his debtor, declarations of the latter as to his habits, or as to the fact of suppression of information are mere hearsay and inadmissible as evidence. Ib.—P.]

Delirium Tremens. Concealed Habits of Intemperance.—In *Hutton* v. *Waterloo Life Association* (Q. B. December, 1859), an action was brought by a widow for the recovery of 2,500*l.* upon a policy effected in April, 1854, on the life of her husband. Payment was refused on the ground that the written answers made by deceased to questions proposed by the company were false, and therefore that the contract which was based upon them was void. One question was whether

he was subject to *delirium tremens* or any disease calculated to shorten life, which he answered in the negative; a second was, whether he was of temperate and sober habits, which he answered in the affirmative; and a third was as to the name and residence of his "ordinary medical attendant, to be referred to as to present and general state of health," to which he answered, "Dr. Cobb." The inquiry now was whether these answers were true. The action had already been once tried, when the plaintiff obtained a verdict; but the court granted a new trial upon the ground that there was no finding by the jury.

The evidence in the case, medical and general, showed that the deceased was of intemperate habits, and that in May, 1854, he had suffered from delirium tremens, of which disease he died in 1856; further, that Dr. Cobb, to whom he referred as his usual medical attendant, had not attended him since 1851, and that from this date until the date of the insurance he had been attended by another medical man, to whom he had given no reference, although he was his usual medical attendant. The jury found for the defendants on the main issues. This case presented two curious features: 1st, the medical evidence proved that the first attack of delirium tremens came on on May 11, after the insurance had been effected; and 2dly, the medical attendant of the deceased and the medical officer of the company differed greatly about the deceased's state of health at or about the time the insurance was effected. The medical attendant of the deceased, who was a witness for the company, deposed that he attended him for an attack of delirium tremens on May 11, and again on May 28, 1854—both attacks being the results of excessive drinking. The report to the company, made by their own medical officer, dated May 22, 1854, gave, however, a most flattering account of deceased's health, and described him as a "first-class life." In his evidence at the trial this gentleman said that he then observed no indication of delirium tremens nor of drunken habits; the deceased was the picture of health. This serious discrepancy could not be reconciled by a re-examination of the witnesses. The concealment of intemperate habits was clearly proved, and on this probably the verdict of the jury chiefly turned.

Questions of a similar kind were raised in *Wheelton* v. *Hurdisty* (Q. B. Dec. 1856). An insurance had been effected to a large amount on the life of a Mr. Jodrell, and the payment of the policy was disputed on the ground that there had been concealment of intemperate habits, and of the existence of delirium tremens at the time the insurance was effected. The jury found that there had been misrepresentation and concealment.

One of the most singular cases of this description, in reference to conflicting medical evidence, was that of *Rawlings* v. *Desborough*, tried by Lord Denman in December, 1837. The main question was, whether a Mr. John Cochrane, whose life had been insured, was or was not a person of intemperate habits at or before the time of insurance. A medical certificate had been given to the effect that his habits were not intemperate. The weight of the evidence, how-

ever, general and medical, tended to show that he was a thorough drunkard. One of the witnesses for the plaintiff said, the deceased "never appeared to me to take anything to hurt a man; I never saw him drink more than the rest of the company; I only saw him intoxicated fifty or sixty times in four years! His health did not seem to be impaired by what he drank." His groom stated that he had seen his master "tipsy a hundred times, perhaps, but not beastly drunk." The late Mr. Travers examined the deceased for one office, and, from what he saw, advised that his life should not be accepted. He considered the man to be laboring under *delirium tremens*. One observation made by this witness is worthy of remembrance when a medical practitioner is engaged in examining a person for a life-insurance—*i. e.*, a man may have pursued an intemperate course for some time, and yet his appearance at the time may be such as to lead a common observer to imagine he was in the plenitude of health when he is liable to become the subject of an immediate attack. Notwithstanding the strong evidence of habits of intemperance from a period anterior to the date of the insurance, the jury returned a verdict for the plaintiffs, but a motion for a new trial was soon afterwards made. Lord Denman observed upon this occasion, in respect to what was *material concealment*, that he did not conceive the true meaning to be, that the party whose life was to be insured was bound to volunteer a statement of every circumstance that anybody might afterwards think was likely to affect the risk of his life. The real intention was, that he should submit himself to a full examination and inquiry, that he is bound to state nothing untruly, and that he is bound to answer all questions truly. If he decline to answer, the office may act upon his refusal, and if he answer untruly, he shall gain no benefit from such false statement.

In February, 1840, a trial took place before Tindal, C. J. (*Pole* v. *Rogers*) relative to a policy on the life of Mr. Peter Cochrane, brother of this Mr. John Cochrane. The insurance was effected in 1834. The insured died the following year of *hydrothorax*, brought on, as it was alleged by defendants, by very intemperate habits, the existence of which was concealed from them. The evidence, both medical and general, was just as conflicting as in the former case, and it became rather a question of credibility. The jury returned a verdict for the plaintiffs, thereby either denying the existence of intemperance, or considering that the concealment of it, if it existed, was not material.

This case is worthy of note in one point of view, as it involved a new question in medical jurisprudence—namely, whether we are to regard the *immediate* or *remote* effects on the body produced by intemperate habits? The Solicitor-General, who appeared for the plaintiffs (the representatives of the insured), argued that the terms "habits prejudicial to health" were too indefinite. Was it to be regarded as an abstract or relative proposition? He appeared to rest his case upon an admission that there was intemperance to a certain degree, but he contended that habits which were not at all prejudicial to the health of one man might absolutely kill another. There

was a very common habit of keeping late hours; this might be utterly destructive to the health of some persons, but not to that of others. This sort of condition was so vague that it left it open to an insurance office to resist the payment of any policy, unless the meaning of the words was brought within some reasonable and well-defined limits. The jury were bound to see whether the alleged intemperate habits had been indulged in for a long time without injury; they must look to all the habits of the person taken together, and see whether one habit was not counteracted in its effects by another. The insured was a man of very active habits, and therefore excessive drinking would not affect him as it would others who led a sedentary life.

This ingenious but sophistical reasoning involves an important medical question. It is well known that intemperance is a relative term, and may be differently construed by different medical witnesses. The real question, however, divested of its sophistry, is this: Can any person indulge in an excessive use of alcoholic liquids without this practice sooner or later leading to an impairment of health, by producing disorder of the stomach and liver, and remotely affecting different organs? The effects of such habits may not show themselves immediately, but the office requires to be informed of their existence or non-existence, and not of the period when they are likely to affect health visibly or to engender a fatal disease. To assert that a man can be addicted to excessive drinking without impairing his health is contrary to all experience. There is no such compensation or balance of habits as that which the Solicitor-General supposed to exist in this case. Habit may accustom a man to intemperance—it may enable him to drink a large quantity of alcoholic liquid without being apparently injuriously influenced by it at the time; but a deranged state of system will sooner or later follow, and delirium tremens or dropsy will probably supervene. A good natural constitution may enable a man to resist the pernicious effects for a certain period, but ultimately they will show themselves in some form of disease; and in the case of these two brothers, the result of their intemperance was made apparent in the very early deaths of both. It is unfortunate that no light is permitted to be thrown on such cases by pathology. Post-mortem examinations are not always made in these cases; for the death being, as it is called, natural, it is not commonly thought necessary to inspect the body, although as in the above instances, the condition of the liver and other organs might at once have removed a difficulty which arose from the conflicting evidence on the habits of the deceased.

In all cases of a contested policy, one important principle is uniformly acted upon; those who resist the payment are bound to prove what they allege by conclusive and satisfactory evidence. A court will not receive probability or conjecture—the evidence must be certain. Hence many suits fail from the medical evidence going no further than to show that a particular disease or habit had *probably* existed at the time of insurance. If the disease or habits be shown

to have *certainly* existed, the evidence may still fail to prove satisfactorily that the concealment was either wilful or material.

Contested cases of life-insurance are very instructive: they often show the imperfect manner in which medical observations respecting health or disease are made, and that the medical treatment of persons whose lives are insured may become a material question in the event of a policy being disputed. In the case of *Chattock* v. *Shawe*, in reference to an insurance on the life of a Colonel Greswold, a question arose not only respecting the concealment of intemperate habits, but as to the concealed existence of delirium tremens, from the examination of handwriting, as well as from the description given by non-professional witnesses. It was here even doubtful what had caused the death of the deceased. According to one medical witness, it was a curious combination of Asiatic cholera, phrenitis, and epilepsy! It was proved that, more than three years before the insurance was effected, this gentleman had met with a fall, and he was afterwards seized with a fit, described by some witnesses as epileptic, by others as arising from concussion of the brain. The existence of intemperance and epilepsy prior to the insurance was not made out to the satisfaction of the jury, and they returned a verdict for the representatives of the insured.

In *Walters* v. *Barker*, tried at the Monmouth Summer Assizes, 1844, the deceased, at the age of sixty, insured his life on the 4th May, 1841, and he died in the August following. It was alleged by the office that the cause of death was an attack of *paralysis*, which it was pretended had existed from a very early period of his life. No medical evidence was given on either side; there was merely a presumption that death might have taken place from paralysis; hence the verdict was for the plaintiffs.

Abstinence. The Vegetarian System.—We have already considered the effects of habits of intemperance, and the necessity for stating in a certificate the existence of them when known; but other habits may exist which have a tendency to shorten life, although in a less obvious manner. What are called *temperance* principles are or were very prevalent. There are many persons who have been full livers, and have afterwards taken up the notion that water and a vegetable diet were all that was necessary to support life. This sudden change, especially in persons advanced in life, is very likely to affect the constitution seriously, and, if not to create disease, so to weaken the vital powers as to render any slight illness or accident serious. I knew one instance in which a gentleman who had been in the habit of living on a full diet, with a moderate use of alcoholic liquids, suddenly adopted the plan of living on water and vegetable food; he obviously fell off in strength, and lost his previously healthy condition. About a year afterwards he met with a slight sprain to the ankle-joint; inflammation ensued, which, in spite of the best treatment, assumed an unhealthy character; suppuration of the joint followed; amputation of the leg was performed, but, in spite of an improved diet, the powers of life never rallied. There was no at-

tempt at union in the flap, and he finally died exhausted. There can be no doubt that these sudden changes in the mode of living are liable to lead to impairment of health, and to affect materially the expectation of life. Hence it is our duty to inquire and report upon facts of this kind when they become known to us.

In *Huntley* v. *The St. George Insurance Company* (Newcastle Autumn Assizes, 1858), a medical man insured his life for 2,000*l.*; and although certified to be in good health, and to all appearance he was so, he died from Bright's disease within three months after he had effected the insurance. There was also disease of the heart. The questions whether he had either of these diseases at the time of the insurance were answered by him in the negative. It was contended that, as a medical man, he must have known that he was suffering from these diseases, and had wilfully concealed them. It appeared from the evidence that the deceased had taken to a vegetable diet, and it was considered that this was the cause of the rapid failing of his health. The jury returned a verdict for the plaintiffs, and the Chief Baron suggested that in future Insurance Companies should put among their questions to insurers, "Are you a vegetarian?"

Opium-Eating.—There is another habit said to be common, the concealment of which gave rise to an important trial some years since: I allude to the practice of *opium-eating.* In 1826 the *Earl of Mar* effected an insurance on his life, and two years afterwards, *i. e.*, in 1828, he died of jaundice and dropsy at the age of fifty-seven. The Insurance Company declined paying the amount of the policy, on the ground that the Earl was, at the time of the insurance, and had been for some time previously, an opium-eater. This practice was concealed from the insurers; and it was further alleged that it had a tendency to shorten life. It was clearly proved in evidence that the Earl had been a confirmed opium-opium eater up to the time of his death. According to Dr. Christison, the deceased had taken laudanum for thirty years, at times to the amount of two or three ounces daily—a tablespoonful for a dose. He was a martyr to rheumatism, and, besides, lived rather freely. Many persons who were constantly about him, and many intimate friends, deposed that until 1826 (the year of the insurance) he was of a cheerful disposition, and clear in his intellects. Some of them admitted that they then perceived a change in his habits, which they attributed to the adverse circumstances in which he was compelled to live. In 1825, Dr. Abererombie found him enfeebled and broken-down in constitution, but without any definite complaint. The main question at the trial was, whether opium-eating had a tendency to shorten life—for on this the issue turned—whether the concealment from or the non-communication of this practice to the office was or was not material.

Drs. Christison, Alison, Abercrombie, and Duncan were examined on the part of the insurers; and although they entertained the opinion that the habit had a tendency to shorten life, they were unable to adduce any cases in support of it. Their opinion was based not on personal experience, but on the general effects of opium

as manifested by its action on the brain—by its producing disorder of the digestive organs, and giving to the person a worn and emaciated appearance. In most of the instances collected, there was no evidence that life had been shortened by the practice. On the contrary, some of the individuals had carried it on for years, and had attained a good old age. The jury returned a verdict for the plaintiffs, not on the ground that the practice was innoxious and its concealment immaterial, so much as on the technical point that the insurers had not made the usual and careful inquiries into the habits of the deceased; and they were therefore considered as having taken upon themselves the risk from their own *laches*. It appears that the general question with respect to habits was not answered by the medical referee, and it was therefore considered that the office had waived the knowledge of them. A new trial was granted, on the ground of misdirection, but the suit was compromised.

Hence it will be seen that no decision was come to in this case on an important question, which is very likely to arise again. It will be desirable therefore to examine some of the facts connected with opium-eating, in order if possible to see how far it really tends to shorten life. In the case of the Earl of Mar, it appeared to be a fair inference that the habit did not shorten his life, for he is represented to have indulged in it for thirty years; and for twenty-eight years, according to the statements of his friends, no injurious effects had followed. Dr. Christison subsequently collected from numerous sources no fewer than twenty-five cases, from which we learn that opium has been taken in large quantities for forty years together without producing any marked injury to health. At the London Medical Society, the late Dr. Clutterbuck related the case of a woman who for seven years had taken two scruples (forty grains) of solid opium daily. She was fifty-four, had led an irregular life, and had first taken opium to relieve the pains of rheumatism. The dose was not increased, and the usual ill-effects of opium were absent—such as constipation, nausea, and loss of appetite. Although she did not increase the dose, the effects of the diminution of a single grain of her usual quantity were most marked, and she felt them immediately. Many cases of this description are recorded by medical authorities; they appear to show that opium-eating has not necessarily that tendency to shorten life which it has hitherto been supposed to have. There is, however, sufficient evidence to prove that the practice gives rise to prejudicial effects on the system and tends to impair health. It may not have this effect in all cases, except on the withdrawal of the stimulus; but this is not the question. It might be on this principle argued that the drinking of alcoholic liquids has no tendency to shorten life, because some hundreds of cases may be adduced in which the persons have been addicted to intemperate habits for years, and have still appeared to suffer but little in bodily health. They who have witnessed the effects of opium-eating in Turkey and China agree that the practice leads to the speedy destruction of health. Dr. Oppenheim, in writing on the state of medicine in Turkey, says: "The habitual opium-eater

is readily recognized by his appearance. A total attenuation of body, a withered yellow countenance, a lame gait, a bending of the spine (frequently to such a degree as to cause the body to assume a semicircular form), and glassy deep sunken eyes, betray him at the first glance. The digestive organs are much deranged; the sufferer eats scarcely anything, and has hardly one evacuation in a week; his mental and bodily powers are destroyed. As the habit becomes more confirmed, his strength continues decreasing, the craving for the stimulus becomes greater, and in order to produce the desired effect the dose must be constantly augmented. After long indulgence, the opium-eater suffers from neuralgic pains, to which opium itself brings no relief. These persons seldom attain the age of forty if they have begun to take opium early." This description of the effects is exactly what we should expect from physiological and pathological reasoning. Dr. Christison states he has ascertained that constipation is by no means a general consequence of the continued use of opium; but this may be simply an exception to the rule. It is believed by some that the action of the drug may be different in different countries, and that the description of the effects produced by the use of opium in Turkey cannot be applied to the English opium-eater. The following case, however, which occurred to Dr. A. T. Thomson at University College Hospital, shows that climate has little influence on the effects of this drug:—

E. M., aged 35, was admitted May 26, 1835. About seventeen years ago she began to suffer from a pain in the right iliac region, for which a medical gentleman ordered her to take ten drops of laudanum night and morning. This was gradually increased, the pain continuing, until at last she took three teaspoonfuls every four hours, night and day. At first the ten drops relieved the pain, but it was found necessary to increase the dose to produce the same effect, so that the three teaspoonfuls at last did not produce so much relief as the ten drops at first. The effect of the small doses was simply to produce a relief from pain, without otherwise affecting the body or mind. As the dose was increased, however, she found it to produce a comfortable condition of the mind: she felt lively and cheerful, and was capable of doing any amount of work; it also caused a sense of warmth over the whole body. She had severe family afflictions, but while under the influence of opium was not at all distressed by them, although she felt them severely at other times. If she passed over the usual time for taking a dose, she had the most distressing sensations about the joints, not of pain, but such as she was unable to describe. She suffered from involuntary motions of the arms, fingers, and toes; numbness in the limbs and body generally; profuse perspiration, nausea, vomiting, and loss of appetite; a saline taste in the saliva, and a bad taste in the mouth; trembling of the limbs, great debility, and a feeling of lassitude. The memory and mental powers generally became impaired, and there was a great depression of the spirits. These symptoms were all relieved by a repetition of the dose. The opium also produced constipation—not more than one motion occurring in a week; and

she does not recollect whether that was produced by medicine or not. If the dose was deferred, she had always suffered from severe headache. Her sense of smell was so much impaired that she could perceive no pungency in snuff; her taste was so much lost that she could not distinguish pepper or mustard; and her hearing was so defective that she could hardly detect the voice of any one who spoke; yet her own voice sounded most disagreeably loud to her. Her touch was so much affected that she could not execute any needlework. The acuteness of all her senses was, however, restored by the usual dose, the want of which was indicated by flushing and heat of the face. During the period of taking the opium she had very little sleep, and in the intervals she did not attempt to sleep from want of the desire, so that she generally worked all night. What sleep she had was, generally, during the day, but this was much confused and easily broken. About five or six years ago, her resources being exhausted, she obtained admission into the hospital. The laudanum was here discontinued for the first three days, and all the above symptoms were present; she now for the first time appeared to see the most frightful spectres of animals and other objects in the ward. The symptoms were again relieved by the usual doses. The doses of laudanum were decreased during the whole time; and when she left the hospital, she took a teaspoonful only in the course of the day. On returning home, as she was dependent on her friends, she was obliged to discontinue the laudanum and wine, and was unable to get beer; she was now more miserable than before, all the symptoms returning with increased severity, and for the first six months she was almost entirely helpless. There was pain in the chest with a cough, which had continued ever since. She was twelve months at home before the above distressing symptoms disappeared. The consequences of her opium-eating then observed were a much-impaired taste, numbness of the limbs, coldness of the feet, inability to walk far without aching pains in the limbs, and a general sense of lassitude.

There is abundant evidence that this drug, as it has been administered to children in the factory-districts, has produced serious injury to health and great mortality. In the late Mr. Grainger's report on the Children's Employment Commission, it is stated that laudanum and other preparations of opium are given to young children in gradually-increased doses, until the child will bear from fifteen to twenty drops of laudanum at a time. The child becomes pale and wan, with a peculiar sharpness of features, and rapidly wastes away, The majority of these children die by the time they are two years old. These facts appear to show that climate does not at all affect the action of the drug in the early periods of life, and the observations yet made are not sufficiently numerous to justify us in affirming the existence of this influence with respect to adults. Dr. Christison has remarked that many persons probably die young from the effects of this habit without the secret being discovered; for even the medical attendant as well as intimate friends may be kept in complete ignorance of the person indulging in it. On the whole,

we are bound to conclude that the habit of opium-eating is injurious to health, and is therefore calculated to shorten life. In any proposal for life-insurance the insurers ought to be informed of this habit where it exists, and no medical man should sanction its concealment merely because many persons addicted to it have lived for years in apparently tolerable health. One of the questions put to a medical man is, whether he knows any material circumstance touching the health or habits of the person to which the other inquiries in the certificate do not extend; and if so, he is required to state them. Now, without going the length of saying that the life of an opium-eater is uninsurable upon a common risk, the habit is itself sufficiently material to require that it should be declared in reply to such a question as this. The practice may be, and often is, concealed from a medical attendant; then the insured, if not candid in avowing its existence, must expose his representatives to the risk of losing all benefit under the policy. Independently of medical facts, which appear to favor both sides of this question, a jury would probably be guided to a verdict by the effect actually produced on the constitution of a person who has been addicted to the practice. If it has continued many years, and there is no proof of his health having in consequence undergone any remarkable change, this might be regarded by the jury as the best possible evidence in favor of the concealment not being in such a case material. The insurers could not equitably complain of the verdict in the Earl of Mar's case; for as he began opium-eating at twenty-seven, and died at fifty-seven without any obviously injurious effects being produced by the use of the drug, it could not be said that in his case at least the practice had shortened life. It is rarely in our power to apply any better or more practical test than this, under circumstances in which medical facts appear to bear both ways. The case is very different from intemperance in the use of alcoholic liquids: no one can doubt that in this form the results must be inevitably to impair health and to shorten life. The facts here bear one way; and if instances of longevity can be adduced among spirit-drinkers, they are well known and generally admitted to be exceptions to the rule. The queries put by Insurance Offices are now so explicit, that they must be considered as including the habit of opium-eating; and there does not appear to be any just pretence for evading the admission of the practice, either on the part of the insured or (if known to him) of his medical attendant.

Tobacco-Smoking.—I am not aware that the prevalent habit of smoking tobacco has ever been regarded in relation to life-insurance. Although inveterate smokers are liable to attacks of dyspepsia, loss of muscular and nervous power, weakness, and other derangements of the system, there is not, so far as I know, any evidence to show that the practice has a tendency to shorten life. Should the habit be stated in a certificate? I think it should, if known to the medical referee and where it is of a most inveterate kind. This would at least prevent objections on the part of a captious company. There is no rule of law on this point, if we except a dictum of Lord Mans-

field: "The insured need not mention what the insurer ought to know, what he takes upon himself the knowledge of, or what he waives being informed of: the insurer need not be told general topics of speculation."

Insanity.—When we are called upon to say what *diseases* have a tendency to shorten life, there is commonly no difficulty in giving a reply, since the name of the disease—its known effects upon the body—the degree of mortality produced by it, and its intractableness, are data upon which a medical opinion may be easily expressed. There are some diseases, however, respecting which it is not so easy to return an answer; and among these may be mentioned *insanity*, which has already given rise to discussion in a court of law. The treatment of this malady falls out of the usual line of practice; and there are comparatively few in the profession who have made themselves acquainted with statistical details respecting it. This may account for the decision in the following case:—

In 1835, a trial took place at the York Assizes, in which the question was, whether insanity had or had not a tendency to shorten life. The representatives of a clergyman brought an action against the Providence Insurance Company, to recover the amount of a policy effected on the life of a gentleman: but the office refused to pay on account of the person having been insane, and this fact having been kept from their knowledge when the insurance was effected. Several medical witnesses gave evidence on the occasion. One considered that insanity had a tendency to shorten life; another, that it had not; a third, who admitted that the deceased was laboring under insanity, did not consider that *his* mental state was such as had a tendency to shorten life. The judge charged the jury that the question for them to consider was, whether insanity had a tendency to shorten life, as, if so, this would make the concealment of it material. If insanity had such a tendency, they must find for the defendant; if not, for the plaintiff. The jury found for the plaintiff, on the ground that insanity had no tendency to shorten life, and that therefore the concealment was not material.

There is probably no case which more strongly shows the necessity for proper medical evidence on these occasions. The finding of the jury was contrary to all good medical experience, and was founded on a complete mistake. The researches of Esquirol, Farre, and others, show that insanity has a decided tendency to shorten life. So well aware are the insurance offices of this, that the existence or non-existence of insanity or mental derangement is now made a special question, to which an answer must be given in the declaration. The contrary opinion appears to have arisen from the hypothesis that insanity is not a bodily disease, and in no way connected with physical changes in the structure of the brain. Admitting this statement to be true, experience is decidedly against the inference based on it, when we look at insanity in the aggregate of cases.

There was formerly an erroneous notion that insanity had a tendency to prolong life; but more correct statistical researches have shown that the insane are more liable than the sane to various dis-

eases, and that when attacked they sink more easily under them: hence the mortality of the insane is, *cæteris paribus*, much above the average of that of the sane population. Among other fatal diseases, the insane are especially liable to attacks of paralysis and epilepsy: and paralysis, however slight, is commonly the forerunner of death in these cases. In private asylums, the mortality is always less than in public hospitals; but recent researches have shown that the mortality of the insane has been much reduced by the introduction of an improved system of management and treatment.

Accurate observations have shown that the mortality among male is greater than among female lunatics, and the more advanced the age the greater the proportionate rate of mortality. The concealment of insanity in any of its forms, or even of a known hereditary tendency to this malady, would be considered material, inasmuch as either condition forms a special question to which an answer should be returned.

Accidental Causes of Death. Death from Sunstroke.—There are several Offices which now insure persons against accidents occurring on sea or land, and it would seem at first sight that there would be less room for litigation under such circumstances. The proof of the accident and the amount of injury done, or (if fatal) the cause of death, would appear to be a simple matter. But the question arises—What is an *accidental* as distinguished from a *natural* cause of death? With our ideas of an accident, we generally associate physical injury or violence done to the person; and if a man dies from any other cause, his death cannot be said to be accidental. This question came before the Court of Queen's Bench, in January, 1861 (*Sinclair* v. *The Maritime Insurance Company*), and the Lord Chief Justice delivered the judgment of the court. The action was brought by the administratrix of a person named *Laurence*, who, being about to proceed on a voyage as a master of a vessel, insured himself against any personal injury from any "accident" which might happen to him upon any ocean, sea, river, or lake. The assured being with his ship in the Cochin River, on the southwest coast of India, and being on duty on board his ship, was, in the language of the special case, "struck down by sunstroke," from the effects of which he died in the course of the same day. The question was, whether the death arose from "accident" within the meaning of the policy, and the opinion of the court was that it did not. It was difficult to draw a line between a death from "accident" in a policy of this nature and a death from natural causes, such as should be of universal application. But the court might safely assume that in an "accident" some violence, casualty, or *vis major* was necessarily involved, and that a death from a known natural cause could not be considered as accidental. Disease or death engendered by exposure to heat, cold, damp, and the vicissitudes of climate or atmospheric influences, could not properly be said to be accidental: at all events, not unless the exposure was brought about by circumstances of an accidental character. Thus, if a mariner in the ordi-

nary discharge of his duty caught cold and died, his death would not be accidental, though it might be so if by reason of shipwreck he was compelled to take to the boat, and died from exposure to wet and cold. In one sense the death was accidental, for the effect was uncertain beforehand; but it must be considered as the effect of natural causes, and not accidental. Sunstroke, so far as the court was informed of it, was an inflammatory disease of the brain, brought on by exposure to the intense heat of the sun's rays. To that disease persons exposing themselves to the sun in tropical climates were more or less liable, just as persons exposing themselves to natural causes of a different kind were liable to diseases consequent therefrom. Death from "sunstroke" must therefere be considered as arising from natural causes and not from accident, and judgment will be given in favor of the defendants.

In the case of a person being killed by lightning whose life was insured against accidental death, the question might arise whether such a mode of death was accidental or not. Death by lightning is certainly not a natural cause of death, and in common language any person killed by lightning is said to have died accidentally.

[Where a death takes place in such manner that it may have happened from natural causes, the assured are not liable unless it is *proved* to have been caused by accident. *Trew* v. *Ins. Co.*, 5 Hurls. & Norm. 211.

A clause in a life-insurance policy provided in case "of a bodily injury to the insured of so serious a nature as to wholly disable him from following his usual business, occupation, or pursuits," for the payment of £5 per week during the continuance of such disability. The insured, a solicitor and registrar of a county court, was confined to his bedroom for several weeks by a sprained ankle, and was consequently unable to attend to his business. It was held that he was "wholly disabled" within the meaning of the policy, and therefore entitled to recover. *Hooper* v. *Accidental Ins. Co.*, 5 Hurls. & Norm. 546.—P.]

Suicide.—Among the conditions in policies of insurance, there is generally a stipulation in the contract that the policy shall be void if the person who insures his life commits suicide. Thus, a medical question may arise as to whether suicide was or was not committed in a particular case. A person may die from poison, wounds, drowning, or other forms of asphyxia; and it may be difficult to say in certain cases whether the death arose from accident, suicide, or from violence inflicted by another. Such cases are often left in great uncertainty at coroner's inquests—the evidence received being imperfect or insufficient; because in cases of sudden death, provided there be no suspicion of murder, it is considered of little moment to make a strict inquiry. If the life of the deceased should happen to be insured under a policy containing this condition respecting suicide, the question may become of great moment to the interest of the insurers, and they will require clear evidence that the death was natural or accidental, and not suicidal, before paying the amount

of the policy. The cause of death should in all cases of violence be determined by a medical man: this will put an end to any dispute concerning the payment of the policy, and relieve the representatives from the trouble and expense of litigation. If the death be sudden, and any suspicious circumstances are left unexplained, it is certain that a civil action will follow. We are not therefore safe if, at a coroner's inquest, we suppose that we have only to satisfy a common jury by a hasty opinion expressed from an external view of the body or an ill-conducted inspection, merely because it may appear to us quite certain that the deceased could not have been murdered. Should the deceased happen to be one of that class of persons on whose lives insurances are commonly effected, the whole of the circumstances connected with the examination of the body, and the medical opinion of the cause of death, must come to light, and if carelessly performed will probably be made the subject of a severe cross-examination. I have known several instances in which there have been painful exposures of this kind, because the medical witness thought any kind of evidence would serve the purpose of a coroner's jury. The verdict of a jury at an inquest is not binding on a Company: they have not only a right but often good reason to dispute it, and they frequently exercise this privilege. The Insurance Companies are exposed to all kinds of frauds, some of them of a most fearful kind, actually leading, as in the case of burial-clubs (a kind of life-insurance), to the perpetration of murder for the sake of the small amount insured.

A case of some interest in reference to the question of suicide by poison, on the part of a person whose life had been only recently insured for a very large sum, was tried before Lord Tenterden in 1832 (*Kinnear* v. *The Rock Insurance Company*); the late Mr. J. H. Green, Mr. Key, and myself were called upon to give evidence on the part of the defendants. This trial would not have occurred but that the medical inspection of the body for the inquest two years previously had been most improperly conducted, and no satisfactory evidence of the cause of death assigned. As a sum of 10,000*l.* rested upon the issue, the insurers felt that they had a right to demand a full and perfect inquiry. The depositions taken at the inquest on deceased were sent to me for examination, and from these it appeared that the person whose life was insured died two years before the action was brought; the body was carelessly inspected for a coroner's inquest, and the contents of the stomach, without being subjected to any chemical analysis, had been thrown away. These circumstances placed great difficulty in the way of producing proof, and in fact so far as medical evidence was concerned they left the question almost a mere matter of opinion. An application was made to me on the part of the Insurance Company, to know whether the exhumation of the body and any further processes of analysis would be attended with any benefit, but an answer was returned in the negative. From the manner in which the first examination had been conducted—also from the fact that, as the symptoms under which the deceased had died could only have been presump-

tively those of narcotic poisoning, it was altogether improbable that, after two years' interment, any trace of narcotic poison would be discovered in the remains.

The deceased—who, according to the evidence given at the trial, had been for some time in a low state of mind—returned to his house, in the Regent's Park, on the evening of the 19th October, 1830. The house was then undergoing repair; his family were in the country, and the only person residing with him at the time was a man-servant. The account given by this person was that the deceased returned home about ten o'clock in the evening, apparently in his usual health: he ordered him to place a decanter of wine, a tumbler, and a wineglass on the library table adjoining his bedroom; told him that he was going to take a composing draught, and desired that he might not be called on the following morning, saying that he would ring his bell if he wanted anything. The deceased went to bed, but about twelve o'clock the servant was awakened by a noise, as if the bar of the library-shutters had fallen. On getting up, he saw his master, without a light, in the act of returning from the library to his bedroom, which adjoined it: he took a light from witness, and again went to bed. On going up stairs ten minutes afterwards, witness found the light extinguished, and the door of the deceased's bedroom fastened. On the next morning, at 9.30, witness went to deceased's bedroom, and knocked at the door as usual, but received no answer; he went again at ten o'clock, but the door was still fastened, and the deceased did not answer when he knocked. The workmen who were employed in the house alarmed witness, about twelve o'clock, by telling him that they had heard his master moaning or groaning. A ladder was then procured, and the room was entered by the window. The deceased was in bed, and appeared to have just died as the witnesses entered. A surgeon was immediately sent for, who on his arrival examined and tasted some liquid which was found in a tumbler on the table. Search was made for a phial, but none could be found: however, it was proved that there were on the library-table a piece of blue and a piece of red paper, evidently the cover and wrapper of a phial, which were not there previously. It was also deposed that a cork and string were found in the fireplace. The window of the library was open, the shutters having been unfastened.

The surgeon, who was called, stated that the body was lying in a composed state, the countenance being somewhat pale. There was perspiration on the skin, with patches of a livid color here and there distributed over it. The body was inspected for the coroner's inquest by two physicians and two surgeons. An accumulation of putrid blood is said to have been found in the stomach, with an effusion on either side of the chest. The vessels of the brain were somewhat turgid, but there was no extravasation. The contents of the stomach were thrown away without any chemical analysis having been made. It appears that the only approach to analysis was the drawing of a stick of nitrate of silver across the mucous membrane of the stomach at the time of the inspection. The cause of

death assigned by these witnesses was the rupture of a bloodvessel in the stomach. A verdict of "Death from natural causes" was returned; the body was buried, and it was supposed that all inquiry had ceased.

The cause of death assigned by the witnesses being considered altogether inadequate to account for this event under the circumstances —the suddenness of death in a person who was in perfect health the evening before—the absence of any sign of effusion of blood in the brain, so frequently met with in sudden death from apoplexy—together with the circumstantial evidence that some liquid had been taken by deceased and the phial disposed of, afforded a strong ground for suspicion. The insurers refused payment of the amount of the policy and demanded an inquiry.

The circumstantial evidence not being of itself sufficient to establish the fact of poisoning, additional evidence was required to determine—1. Whether the cause of death assigned by the witnesses at the inquest was adequate to account for it; and 2. Whether, if not, the facts proved relative to the death of the deceased were consistent with narcotic poisoning—whether, in short, death by poison was or was not probable.

Mr. Green, Mr. Key, and myself were requested to give an opinion on these points. With regard to the first, we said the cause of death assigned by the witnesses was inadequate and unsatisfactory. The blood found in the stomach was loosely described as half-putrid and not coagulated: so far from its being proved that it had been effused during life, it was not improbable, from the careless manner in which the inspection was made, that it had proceeded from some vessels divided by the examiners. Admitting that it had been effused during life, it did not furnish a satisfactory explanation of the cause of death, since the quantity was small. That it was not satisfactory to the inspectors themselves appeared certain from the fact that they examined the stomach for some kind of poison by the rough experiment of drawing a stick of nitrate of silver over the mucous membrane! Further, gastric hemorrhage rarely destroys life on a first attack, and is generally accompanied by vomiting of blood; but the deceased had never been subject to hæmatemesis, and there had been no bloody vomiting.

With regard to the second question, the facts proved might be explained by supposing that the deceased had taken a poisonous dose of laudanum or of some preparation of opium: it might be contended that no opiate was present in the stomach, but it did not appear that any analysis had been made. The deceased had died in about the period at which this poison operates fatally, and it was for the jury to determine from the circumstantial evidence, as the medical evidence wholly failed to throw light upon the subject, how far this was likely. We all agreed that narcotic poisoning in the deceased's case was, so far as we could speak in the absence of an analysis, probable, inasmuch as the facts proved respecting his death agreed with this view, and the results of the medical inspection so far as they went were quite consistent with it. On the other hand,

the question might arise whether there were no natural causes which would have destroyed life within twelve hours in the same tranquil manner in which the deceased was supposed to have died. To this it may be replied, that apoplexy and other diseases might also have accounted for death; but there was no evidence from the inspection to establish the existence of these, and death from a narcotic poison was, medically speaking, just as probable. It short, as the evidence was essentially of a negative kind, and there were two ways of accounting for death, either of them consistent with the medical facts, it remained for the jury to decide from the whole of the circumstances which was the more probable. The cause of death was entirely a matter of medical presumption. It was impossible to swear that the deceased could not have died from apoplexy or from the effects of a large dose of an opiate. As the case was only one of *suspicion*, and not of actual *proof*, a verdict was returned for the plaintiff.

There can be no doubt of the propriety of the verdict, since the law always justly insists upon what the circumstantial evidence combined with medical opinions was here incapable of affording—namely, *direct* and not inferential *proof* of death from poison. The insurers had alleged suicide by poison—this they were bound to prove by clear and distinct evidence; the plaintiff was not required to show that the death was natural. If, besides the paper-wrappers, string, and cork, a phial which had evidently contained laudanum had been found, or the liquid in the tumbler, instead of being merely tasted or smelt by the medical gentleman and then thrown away, had been carefully analyzed, or had the same cautious proceedings been adopted with regard to the contents of the stomach, clear evidence might have been adduced which would have satisfied the jury that the deceased had died from narcotic poison. In supposing that the deceased took a fatal dose of an opiate, it was assumed that he had disposed of the bottle by throwing it out of the library-window, which was found open after the shutters had been fastened: no traces of the *composing draught* which he had told his servant he should take were found—not even the phial—and the colored wrappers of paper, cork, and string found in the bedroom were not accounted for.

The only point that went against the presumption of narcotic poisoning was this: the servant swore on the trial that his master's bell rang about nine o'clock. If this were true, the deceased could not then have been under the influence of a narcotic poison, as he must have walked across the room to have rung the bell. This would have given but *three hours* for the fatal operation of the poison, while most cases of poisoning by opium have not proved fatal in less than from six to twelve hours. Still, opium has been known to cause death within a short period. Dr. Christison met with a case where the person died in three hours, and Dr. Beck another where death occurred in two hours and a half. But on comparing the evidence of this witness at the inquest and the trial there was a great discrepancy. He said nothing of a bell ringing when exam-

ined at the inquest recently after his master's death (*i. e.* two years before the trial), when it might be supposed that the whole of the circumstances were fresh in his mind. He had also stated that just before the alleged ringing of the bell, when he knocked at his master's door, on going up to his room about nine o'clock, he received no answer. There was only one bell in the house, and the four workmen employed about the house did not hear it ring during the whole of the morning. These four witnesses also deposed to another important fact: they swore that between eleven and twelve, hearing a groaning or a snoring in the deceased's bedroom, they proposed to the servant to break open the door and enter; but he objected because, he said, his master was poorly—that he had taken a composing draught, and had desired him not to go near the room until he heard his bell ring. This he said two hours after the time at which he swore on the trial that he had heard the bell ring and went up to answer it! This part of the evidence, which appeared to militate against the presumption of narcotic poisoning, was therefore inconsistent and unworthy of belief; but by a strange omission the discrepancies in the evidence of this witness escaped notice at the time. This case shows the importance, nay the absolute necessity, of performing post-mortem inspections and chemical analyses for inquests in a careful and proper manner. It also illustrates the principle that, although suicide may be a ground for vitiating a contract of this description, the allegation must not rest upon mere medical presumptions or inferences, but upon direct and positive proofs.

Among the medico-legal questions connected with this subject is the following: Does the proviso in the policy respecting suicide include all acts of self-destruction, or is it restricted only to those cases in which either a sane or a partially insane person consciously destroys himself? This question has been elsewhere considered (chap. 64). The act of suicide does not necessarily indicate insanity; but even if it did, the rule of law, as settled by a majority of the judges in reference to this proviso in cases of life-insurance, is that whenever an insured person destroys himself *intentionally*, whatever may be the state of his mind, the policy is void. If a person, whether sane or insane, kills himself *unintentionally*, then the insurers are liable; but the onus of proof in this case lies upon the plaintiffs, *i. e.* those who would benefit by the policy. According to the practice of some offices, the act of suicide does not render a policy void.

[The leading English cases on this subject are *Borradale* v. *Hunter*, 5 Mann. & Grang. R. 639, and *Cleft* v. *Schwaibe*, 3 Mann., Grang. & Scott R. 437. In the former case the provision was, that the policy should be void if the assured "should die by his own hands." The assured threw himself into the Thames and was drowned. The jury found, however, that though this was done voluntarily, and with intent to destroy life, that the assured "was not capable of judging between right and wrong." The majority of the court held the policy to be avoided. Chief Justice Tindal dissented, delivering a very able opinion sustaining his views.

In the other case the policy provided that it should become void if the assured "committed suicide." He did, in a fit of insanity, commit suicide by taking sulphuric acid. CRESWELL, J., directed the jury that they must find for the plaintiff, unless the assured, when he died by his own voluntary act, "was able to distinguish between right and wrong, and to appreciate the nature and quality of the act that he was doing, so as to be a responsible moral agent." Upon a bill of exceptions this instruction was held to be erroneous, the majority of the court being of opinion that it was immaterial under the terms of the policy, whether the assured was or was not at the time a responsible, moral agent. Chief Baron POLLOCK and Justice WIGHTMAN dissented, on the ground that as "soon as it is ascertained that a person has lost his sense of right and wrong, it matters not what else of the human faculties or capacities remain, and that he can no more commit suicide than he can commit murder."

The same question arose in *Breasted* v. *Farmers' Loan and Trust Co.*, 4 Hill (N. Y.) R. 73; affirmed in 4 Seld. 299. The policy in that cases provided that it should become void in case the assured should "die by his own hand." He committed suicide by drowning himself in the Hudson River, being at the time of "unsound mind, and wholly unconscious of the act." The case came before the court upon a demurrer. NELSON, C. J., delivered the opinion of the court, giving judgment for plaintiff.

A similar decision has recently been made by the Supreme Court of Maine upon an insurance effected by Joseph Esterbrook, who afterwards became deranged, and committed suicide by shooting himself. (Legal and Insurance Reporter, Sept. 1866, p. 281.)

As to the construction of the words "die by his own hand," see *Hartman* v. *Keystone Ins. Co.*, 9 Harris (Penna.) 466.—P.]

It is naturally supposed that a man has a direct interest in preserving his own life, but this of course will not prevent him from falling a victim to the criminal designs of another. The insurable interest of a person in the life of another became an important question in January, 1863, in *Hebdon* v. *West*. The plaintiff, a clerk in a banking-firm, had effected an insurance on the life of one Pedder, who was a member of the firm. Plaintiff became indebted to the firm for a sum of 5,000*l.*, and Pedder having informed the plaintiff that he should not be troubled with any demand for repayment during his (Pedder's) life, the plaintiff insured Pedder's life in the defendant's company for the sum of 2,500*l.* It was the payment of this sum to the plaintiff that was now in dispute, the defendant contending that plaintiff had no insurable interest in the life of Pedder. The case was argued, and the court put to counsel the cases which had been already decided, of a father insuring his son's life or a husband his wife's. It had been held that in these cases there was no insurable interest. Hence, when a husband desired to make a provision for his wife, he insured his own life—she did not insure his. Further, they instanced the remarkable case of *Wainwright* (p. 762), in which that person induced his sister-in-law to insure her life, and then poisoned her, in order, as next of kin, to get hold of the sum

assured. That case showed the immense importance of the law requiring a real interest in the life of a person whose life was insured. The result of the argument was that the court reserved its judgment; but there appeared to be no agreement concerning what was a legal insurable interest in the life of another. [See *Reese* v. *Mutual Ins. Co.*, 23 N. Y. (9 Smith) 516; *Rawls* v. *Insurance Co.*, 36 Barb. (N. Y.) 357. In the latter case it was held that a creditor's insurance upon the life of his debtor was not invalidated by the running of the statute of limitations against the debt before death.—P.]

The insurance of lives has been considered to be objectionable, on the ground that it tends to create an interest in the death of another, and thus to lead to secret acts of murder. The 14th George III. c. 48, expressly enacts that no insurance on life shall be valid unless the person insuring has a direct legitimate interest in the person whose life is insured. This statute was enacted for the purpose of preventing gambling in policies, and to guard society against the risk of persons insuring contriving the death of the insured for the sake of the payments to be made under the policy; but its effect is simply to render the policy void; it does not require that the premiums shall be refunded, nor does it award any penalty on the offenders. As policies of life-insurance may be bought and sold like other property, they may fall into the hands of persons who have no other interest in them than the desire that such policies should speedily become claims by the death of the insured. The interest of such holders, it has been justly observed, lies in the *death* and not in the *life* of the insured.

[In a recent case in Pennsylvania, *Elliott's Executor's Ap.* 14 Wright, 75, it was decided that the assignment of policies of life insurance by a debtor who was insolvent when insured, in trust for the benefit of his wife, is fraudulent and void as against creditors. But that policies effected without fraud directly and on their face for the benefit of the wife and payable to her, are not fraudulent as to creditors.—P.]

A case is related[1] in which a man was found dead at St. Fergus, in Scotland, from a pistol-shot wound under very suspicious circumstances. The medical and moral facts were not consistent with the theory of suicide; on the contrary, they all pointed to a cool and deliberate act of murder. A medical man was placed on his trial for this alleged crime, and the motive assigned for the act was that the prisoner had recently effected insurances in three different offices to the amount of about 2,000*l.*, upon the life of the deceased —a poor man, in whose life it was proved he could have had no lawful pecuniary interest. The insurances were only for short periods, and as in the Scotch Offices the policies are not rendered void by suicide, the amounts could be claimed even assuming that the deceased had destroyed himself. The body, weapon, and other objects had, it was supposed, been arranged with a view to make it appear that the act was suicidal. It is a significant fact, however,

[1] [Taylor's Princ. and Prac. of Med. Jurisp., p. 537.]

as a key to explain the death of the deceased and the motive of the accused, that the risk connected with the largest insurance (1,000*l.*) commenced on the 24th November, 1852, and terminated on the 24th November, 1853. Only one premium to the amount of about eleven pounds had been paid, and this payment was proved to have been made by the prisoner. The deceased was found dead on the 20th November, 1853; *i. e.* only four days before the date at which the policy of insurance on his life would have lapsed. The evidence went to show that the accused had the motive, means, and opportunity of committing this crime; but as there were no circumstances which could directly fix it upon him, he was acquitted of the charge.

A remarkable case was tried in this country in 1835 (*Wainwright* v. *Bland*, Exchequer, 29th June, 1835), in which the amount of a policy of insurance effected for two years on the life of a *Miss Abercromby* was sought to be recovered. The action was brought against the Directors of the Imperial Assurance Company, and was resisted by them on the grounds that the lady had been destroyed by poison, and that the plaintiff Wainwright had no lawful pecuniary interest in her life. As there is strong reason to believe that this was one of the first murders brought about by the use of strychnia in this country, it may be considered as the type of those which twenty-one years afterwards were for a time successfully perpetrated by the criminal William Palmer. Strychnia had been discovered only twelve years previously, and it was then but little known as a poison either in England or France. The history of the case is remarkable, as the real cause of death was completely overlooked. Two fine-looking young women of the name of Abercromby, the daughters of a deceased officer, with no other property than pensions of ten pounds a year from government, lived a few miles out of town with a man of the name of *Wainwright* and his wife, who were also in reduced circumstances. They came to London in 1830, as the winter was setting in, and took lodgings. The elder girl, having just attained her twenty-first year, was sent, sometimes alone and sometimes with her sister, to no fewer than eight or ten insurance offices, to effect insurances at each on her own life. Being in full and vigorous health, she met with a favorable reception from several offices, although she could assign no other reason for wishing to insure her life than that she was told it was right for her to do so. Five offices granted policies in her own name, some for two, others for three years, for no less a sum than 16,000*l.* Among them the Imperial, in October, 1830, accepted an insurance on her life for two years for 3,000*l.* On the 13th of the following December, when in perfectly good health, she made her will, and assigned this and other policies to the plaintiff Wainwright and his wife. On the evening of this day the whole party went to a public theatre, and on their return had a supper of oysters and porter. On this occasion Miss Abercromby was first taken ill; it was said she suffered from an hysterical attack, but there is no clear account of her illness at this time. It was not until the 16th that she was seen by a physician,

but her illness was not such as to excite alarm; it was supposed to be hysterical. On the 21st this physician was called suddenly to her, and he then found her in violent tetanic convulsions, resembling those which are sometimes the effects of a wound, *i. e., tetanus.* She said she was sure she should die, and she suddenly went off into a fit of convulsions. The physician left the house, returned in about an hour, and she was then just dead. The appearances presented by the body are imperfectly reported; there was an effusion of serum at the base of the brain, and to this death was referred. There was no analysis of the contents of the stomach; it is said they were minutely examined, and that there was no appearance of anything sufficient to account for death; but the person to whom this examination was intrusted was not called to the trial.

Wainwright, as executor and trustee, applied for payment of two of the policies which had been assigned to him, but this was refused. He then went to France with his family, and five years afterwards (in 1835), through an agent, brought an action against the Imperial Assurance Company. On this occasion the jury could not agree in a verdict. ("Med. Gaz.," vol. 16, p. 606.) Another action was afterwards brought against the company, and the facts above stated came out at the trial. The Attorney-General said that the plaintiff had left the country, and there was good reason to believe that he would never again return to it. The judge charged the jury that, whether murder had been committed or not, the executors could recover, provided the insurance had been effected *bonâ fide* on behalf of the deceased. His lordship directed their attention to the extraordinary fact of this young lady, the deceased, having effected these large insurances for only *two* years; of her sudden illness and death in convulsions soon after the assignment of the policy; and reminded them that no proof had been adduced to substantiate the reasons she had given to the various offices for effecting the insurances on her life. By the will and assignment made to the plaintiff and his wife, these persons were placed in a situation in which the law would not allow any one to stand—namely, that of having a strong interest in procuring the death of a fellow-creature by unlawful means. The jury returned a verdict for the insurers, on the ground of misrepresentation and want of interest.

There can be no doubt that this young woman died from the effects of a dose of strychnia, administered to her shortly before she was seen by the physician on the afternoon of the 21st December. Tetanus as it is produced by this poison is rapidly fatal; but as it arises from wounds it comes on slowly, and is only fatal after some days, and there was no wound or other natural cause to account for its occurrence. Wainwright was subsequently tried, convicted of forgery, and transported. He died many years afterwards in one of our penal settlements, and, before his death, it is reported that he substantially admitted that he destroyed Miss Abercromby and several other persons by strychnia.

Some of the poisonings which took place at Rugeley in 1855–6, and which culminated in the conviction and execution of the noto-

rious *William Palmer* for the murder of J. P. Cook, originated in the easy system of raising money by the insurance of lives. The body of Ann Palmer, the wife of the prisoner, had been lying fifteen months in the grave, under a professional burial-certificate of death from *bilious cholera*, when the sudden death of Cook and the detection of antimony in his body led to the exhumation of the body of this lady. It was then found that she had died from the effects of antimony, which was detected by Dr. Rees and myself in all parts of the body, even in the ovaries. When the history of the illness which preceded death was gone into, it was found that the symptoms were consistent with the effects of tartarized antimony, but not with those of bilious cholera or any other disease. Antimony had not been prescribed for the deceased during her illness, and it was therefore clear that it must have been administered to her by some one up to within a short period of her death. With an actual life-interest in his wife's property to the extent of only 3,000*l*., and within the short period of nine months of her death, *William Palmer* made, or caused to be made, proposals for insuring her life in eight different offices for an aggregate sum of 33,000*l*. Three of these proposals made by *himself*—to the Norwich Union in December, 1853, for 3,000*l*.; to the Scottish Equitable in January, 1854, for 5,000*l*.; and to the Sun in February, 1854, also for 5,000*l*.—were accepted by these offices. He thus contrived in less than three months to effect a total insurance of 13,000*l*., to cover a life-interest of 3,000*l*. on his wife's property! The other proposals, to the amount of about 20,000*l*., were declined by the offices to which he applied. The total premiums paid by *Palmer* on the three policies amounted to 38*l*.: and he was at the time so pressed for money, that he drew a bill which was actually discounted on the security of the policies, so that he contrived to make the policies pay for themselves. As he was in embarrassed circumstances, and unable to meet bills of this kind without becoming *still* more deeply involved in debt, the realization of the policies by the death of his wife became to him a matter of necessity. Within little more than six months after effecting the insurances on her life, the wife died from poison under his immediate superintendence. On her death these large sums were claimed by *Palmer*, and were paid to him by the offices. Although there was at the time some suspicion that the wife had died from poison, there was no inquest or inspection, and the body was hastily buried. These facts only came to light more than a year afterwards, during the investigation of another murder in 1855. It seems that the general respectability of *Palmer*, his social and professional position, together with the two medical certificates of the cause of the death of the wife, checked any intention which might have existed on the part of the offices to resist the payment of the policies. *William Palmer*, however, carried his life-insurance speculations much further than this. Having no pecuniary interest whatever in the life of his brother Walter Palmer, he either made or induced him to make proposals for the insurance of his life, in various offices, to the amount of 82,000*l*. The Prince of Wales office accepted the proposals to the

extent of 13,000*l.*, under certain limitations. On the 16th August, 1855, Walter Palmer died suddenly, in the presence of his brother and another man of doubtful character, with whom he had recently placed him as a lodger, and it was rendered highly probable, if not proved, that the prisoner *William* had shortly before purchased at a druggist's a bottle of prussic acid. The policy had been previously assigned by Walter to *William*, for a nominal consideration; but when *William Palmer* made application for the amount after the death of his brother, the office refused payment; and, for very good reasons, *Palmer* failed to enforce it. He subsequently tried, but ineffectually, to insure, to the extent of 25,000*l.*, the life of his groom, George Bates, described by him in his proposal as a "gentleman" of independent means; and he advised a man named Cheshire, the postmaster of Rugeley, also to make proposals on his life to the extent of 5,000*l.* and assign the policies to him. But for the revelation of facts connected with the death of Cook, these two persons, on whose heads a heavy life-insurance value had thus been set, would have been the next victims. Thuggism, as formerly perpetrated in India by a certain class of Hindoos, might be regarded as a venial offence compared with this professional mode of raising large sums of money upon human life.

It is now the custom of Offices to require a statement whether the life has been already proposed to other Offices, and whether the proposal has or has not been accepted. But this is only a partial method of checking such nefarious speculations. In France and most Continental States insurances of this kind are said to be strictly forbidden, not for the prevention of gambling (which is rather encouraged), but in order to guard society against the risk of the persons insuring contriving the death of the insured. That these regulations are not sufficient to guard against secret murder and speculation in human life is, however, clearly established by the case of *Dr. De la Pommerais*, who, in May, 1864, was convicted in Paris of the murder of a woman name Pauw. The reader will find an account of the medical circumstances connected with this act of murder, which equals, if it does not surpass in atrocity, the murders perpetrated by William Palmer on his wife and brother, on p. 364 of "The Principles and Practice of Medical Jurisprudence."

De la Pommerais had first cohabited with the deceased. Having thrown her off, he married, in August, 1861, a lady of some fortune, Madlle. Dubizy. Some time after the marriage, the mother of this lady died under very suspicious circumstances, as it was supposed, from poison administered by the prisoner. In June, 1863, he suddenly and without any apparent cause renewed his intimacy with the deceased Pauw, who was living in great poverty with several of her children. Having advanced to her small sums of money, amounting on the whole to about 27*l.*, he induced her to insure her life in various Insurance Offices for the sum of 22,000*l.*, and afterwards to assign the policies to him. The reasons which he gave for effecting these insurances were—partly that he had advanced to the deceased large sums of money (4,000*l.*), and partly that, in the event

of her death, he wished to provide for his illegitimate children. The first statement was proved to be untrue, and the second was inconsistent with the claims which he subsequently made on the Offices. The woman was examined, found to be in good health, and insurances on her life were effected for two or three years to the large amount above stated. La Pommerais paid the first premiums, amounting to 600*l.* He had thus entered into engagements for three years to pay in premiums a sum of about 800*l.* per annum, when his practice did not bring in more than 400*l.* per annum, and he had no other resources. He induced the deceased to feign that she was ill and had met with an accident; but the surgeons and physicians whom she consulted found, on examination, that there was nothing the matter with her, with the exception of a few attacks of vomiting. She continued well up to the 16th of November, when the prisoner visited her and passed the evening with her. She was taken very ill that night, and after violent vomiting and convulsions, with fainting, she died on the morning of the 17th, as it was proved, from the effects of digitaline, a large quantity of which the prisoner had purchased some time before, and of the disposal of which he could give no satisfactory account. He found no difficulty, however, in procuring a medical certificate to the effect that deceased had died from gastritis and perforation of the stomach. The policies of assurance had been assigned to him by the deceased shortly before her death, and it was the early claim which he put in for the payment of them that first led to suspicion. There was no answer to the charge of murder by the administration of digitaline, and the prisoner was convicted and executed.

The proper method to stop this secret system of murder would be by placing severe legal restrictions on the sale or assignment of policies, and by preventing the purchase of them by strangers, who can only have an interest in the death of the insured at the earliest possible period. The burial-club murders are said to have been much checked by a regulation which prohibited a person from recovering under this species of insurance more than the amount proved to have been actually paid for the funeral.

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